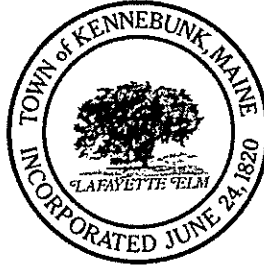


Town of Kennebunk, Maine



Site Plan Review Board

MEETING MINUTES
Thursday, June 29, 2023
Town Hall, Kennebunk, Maine

This meeting was held in person in Room 301, Town Hall, 1 Summer Street, Kennebunk. A recording of the meeting is available on the Town's website and the hearing can be viewed at any time at www.TownHallStreams.com.

Present: Gary Dugas [Chair], Jeanne Dunn [Vice Chair], Brenda Robinson [Secretary], and Keith Hafer [Member],

Absent: Albert Kolff [Member];

Also Attending: Brittany Howard [Town Planner], Christopher Osterrieder [Town Engineer and Community Development Director], Bryan Laverriere [Public Services Director], and Owens A. McCullough [Sebago Technics].

1. Call to Order: Chair and presiding officer G. Dugas called the meeting to order at 7:00pm on June 29th, 2023 at Town Hall. This was an in-person meeting. There were four voting members present: Dugas, Dunn, Robinson, and Hafer.

2. Approval of Prior Minutes: G. Dugas first led the Board in a page-by-page review of the Minutes of the Board's meeting of May 25, 2023.

Motion: Move to approve the Minutes of the Board's meeting of May 25, 2023 as submitted.

Moved: J. Dunn

Second: K. Hafer

Vote: Show-of-hands vote, 3 votes in favor [Dunn, Robinson, Hafer], none opposed, 1 abstention [Dugas had not attended the 5/25/2023 meeting]; the motion carried.

3. Agenda Items

a. Public Hearing — 36 Sea Public Service Facility Expansion — Map 75 Lot 40

B. Howard re-introduced this application to expand the Town's Public Services Facility located at 36 Sea Road. The expansion, Howard said, was intended to renovate the Public Services garage, add administrative space, and improve site access and traffic flow. On June 14, 2022, voters authorized the Town to issue \$11 million of municipal bonds to fund the project. Details about the project are available for public inspection on the town website.

B. Howard reported that the Police and Fire Departments had reviewed the plan and had no objections with it. Howard asked that setback and wetland lines on the plan be labeled. The third-party engineer, she said, had also submitted comments which the applicant needed to address.

Howard reminded the Board that the applicant sought five waivers. One of the five — a waiver of the High Intensity Soil requirement --- had been approved by the Board at its prior meeting.

Owens McCullough, representing the applicant, addressed the Board next. He briefly highlighted the evolution of the project. The Town's existing Public Services facility, he said, had exceeded its useful life. The equipment being used by the Town is larger, more sophisticated, and ever more in need of in-door storage. Voters, O. McCullough observed, had voted in favor of funding the project.

McCullough showed an aerial diagram of the project, highlighting the locations of existing and proposed buildings. The new "main building" would be approximately 16,202 square feet or 90 feet by 180 feet in size. It would hold administrative space, a locker room, a site for an air compressor, and a repair/welding shop. The building would be pre-engineered metal with a concrete foundation and radiant floor heat.

The representative went on to explain that the facility's existing private septic system would be eliminated and the premises instead served by public water and sewer. The existing main Public Services building would be re-purposed for storage. A new roof and doors would be added if funding is available.

The present site, O. McCullough noted, had no stormwater drainage system. The new site will have a series of catch basins to collect drainage and meet the DEP's stormwater management requirements. This improvement will be "a significant environmental benefit", according to McCullough.

McCullough then explained that a new water line would be installed for the facility's access to public water and that electric connection would be made underground from Sea Road to the new building. The new main building would also be fitted to hold solar panels, however the installation of such panels would depend on prevailing pricing later in time.

McCullough likewise explained the rationale for having three curb cuts to the site. The additional curb cuts, he said, would make vehicular movement and egress safer into and out of the Transfer Station, Facility, and Dog Park.

Using an aerial diagram and side-view elevations, O. McCullough went on to describe each entrance and building. He showed how traffic flow would be improved via the three curb cuts.

O. McCullough acknowledged that the project would cause approximately 21,420 square feet of “wetland alterations”, which he said was the minimum amount of intrusion on wetlands as determined by extensive research and study. “We squeezed the site down to about as small a footprint as we can,” the representative stated, “precisely to minimize the wetland impact.”

According to McCullough, overall construction is expected to take approximately 18 months after all the permits are received. Occupancy, he said, was likely “sometime in late 2025 or early 2026.”

McCullough then enumerated the additional four waivers sought [cited below] and verbally explained the rationale or justification for each one. In the process, he depicted the interior of the new administrative building and showed architectural renderings of the exterior.

B. Robinson urged the project’s planners to maintain separate spaces in the Dog Park for larger and smaller dogs. There being no other Board member questions or comments, G. Dugas formally opened a Public Hearing and invited public input.

A number of speakers came forward — to include William Hetzel, David Cote, Julie Ickerson-Cote, Faye Gmeiner, John Gmeiner, Christopher Riley, Barbara Fleshman, Stephanie Kapantais, and others. These speakers made similar observations. Their comments and questions are summarized below.

B. Howard additionally summarized emails which staff had received from individuals who could not attend tonight’s meeting. Those emails communicated similar questions and comments as those voiced by in-person participants:

Comments

- Commentators foremost of all expressed concern that creating three Facility entrances would significantly increase traffic on Sea Road and “dangerously” reduce street safety for residents, pedestrians, cyclists, and school children. Many commentators asked that the three curb cuts not be approved.
- The Town’s Public Services Facility, many felt, was an “industrial/commercial” project and should not be located in a “suburban/residential” zone. The proposed project should be built in some other location away from residential dwellings, schools, and wetlands.

- The environmental impact of this project is prohibitive and should be avoided at all costs. A huge swath of wetlands will be filled. Wildlife habitats will be destroyed. This impact was unacceptable for many commentators.
- A sidewalk on Sea Road has long been overdue. This project makes the need for a sidewalk even more pressing.
- The cost of this project is escalating and is likely to continue to do so.

Questions

- Had a traffic study been done to scientifically determine the traffic impact of this project on Sea Road?
- How long will Sea Road be closed because of this project?
- Is light trespass onto neighboring properties likely?
- Why would this project enlarge the site's culvert? What drainage problems are envisioned?
- Had an investigation of alternate sites been conducted and, if not, why not? Could this project be temporarily halted and a new study of alternate sites be undertaken?
- Could another traffic light be installed on Sea Road for added safety?

In response to these comments and questions, B. Laverriere, O. McCullough, and C. Osterrieder offered responses and views.

B. Laverriere explained the rationale for the additional entrances. Having only two entrances for the new site, he said, would require modifying the location of the internal roadway of this project and expanding it to facilitate the turnarounds of trucks and emergency vehicles. That, in turn, would require intrusion on more wetland. According to Laverriere, a third entrance "circumvents this wetland problem and would facilitate traffic flow." B. Robinson concurred, observing that it was the opinion of the Fire Chief that a third entrance would be beneficial for fire truck maneuverability.

C. Osterrieder then spoke to concerns about increased traffic on Sea Road. "This project by its very nature," Osterrieder stated, "should not be generating more traffic." The Town, he explained, was not buying or leasing more vehicles or hiring more Public Services staff. The number of citizens using the Transfer Station or Dog Park was not likely to increase because of the new facility. The traffic moving into and out of the Public Services Facility, Osterrieder concluded, should be substantially the same.

O. McCullough offered responses to some of the public questions as well. He explained that the site's culvert was being enlarged so it could be buried in the ground and permit "critter passage". The culvert did not have a primary drainage-management purpose, he said. Instead, catch basins would be installed in other locations to manage drainage in ways that fully satisfied state guidelines.

McCullough next explained that lighting on the site would be “directional” so light trespass should not be an issue. The project, too, would leave in place a 60-ft. buffer strip of trees and vegetation.

C. Osterrieder addressed the several comments about the need for a study of alternate sites. Such an evaluation had already been done, Osterrieder explained, and further study did not appear to be warranted as voters had already spoken. “Voters were clear about approving this project, the site location, and its funding”, Osterrieder stated.

R. Robinson again concurred. She stated that Town Hall had, in fact, conducted a formal review of available land and alternate site locations. None met this Facility’s requirements or had less wetland or neighborhood impact. One public commentator asked to see those findings.

C. Osterrieder then reminded the Board and public as to how the Sea Road site had, in fact, been selected. A “Transfer Facility Task Force,” Osterrieder said, had studied the matter, conducted a formal survey of hundreds of residents and businesses, and also identified, investigated, and evaluated different potential land sites. This took place over an extended period of time with the public’s involvement and discussion in public fora well in advance of residents’ 2020 vote approving the project, site, and funding.

Osterrieder commented, as well, on the legitimate concerns of residents about traffic on Sea Road. He observed that — regardless of this project — public safety and road safety were continuously Town priorities. However, voters had approved this particular facility and site, Osterrieder said. Voters had not approved funding for sidewalks on Sea Road when that option, too, was presented for voter consideration.

O. McCullough also commented on the project’s environmental impact. The impact on wetlands, he said, had been carefully studied and minimized. Scientific studies had been conducted by a specialist group and concluded that the project’s intrusion on wetlands would not “critically harm” wildlife habitats. The impact is now being assessed by the Army Corps of Engineers and Maine’s Department of Resource Protection as well.

As for the closure of Sea Road, O. McCullough said that movement on that street would be limited for “one week or less”. However, one lane will be kept open at all times — “even when the project site is being linked to public water and sewer.”

C. Osterrieder also explained that additional traffic lights on the street were a matter requiring state approval based on traffic studies and incidence of accidents. It was not clear, Osterrieder said, that additional lights would be helpful as increased traffic was not likely.

G. Dugas solicited other public comments, questions, or remarks. There being none, he formally closed the Public Hearing, and the Board proceeded to consider the additional waivers being requested.

1. Waiver of the asphalt limitations and separation of parking by at least 5 feet from a building otherwise required by Article 11 Section 8.(1)(f).

O. McCullough explained the nature of the proposed buildings and the applicant's wish to install pavement right up to buildings in many locations for easy vehicle access and for functionality consistent with that of Public Works buildings in general.

Motion: Move to grant this waiver

Moved: K. Hafer

Second: B. Robinson

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

2. Waiver of the terminal islands and separation of parking spaces from garage entrances/exits, otherwise required by Article 11 Section 8.(1)(g).

O. McCullough observed that the parking contemplated for this facility was consistent with typical parking at other Public Services facilities rather than public retail parking. Equipment drivers, he said, need "close proximity and access" next to or near the proposed buildings. Islands would be repeatedly banged into, disturbed, and soon ruined by heavy vehicular movement.

Motion: Move to approve this waiver of Article 11 Section 8.(1)(g) due to due to the location of the doors and the large trucks maneuvering the site.

Moved: J. Dunn

Second: K. Hafer

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

3. Waiver of the curb cut restriction (no more than two) otherwise required by Article 11 Section 8.(6)(d)2.

The objective, O. McCullough said, is to have three entrances to move traffic functionally and safely into, through, and out of the site. He re-iterated that the proposed three entrances were deemed to be much safer and helpful by the Fire and Police Departments. The third entry, McCullough said, would facilitate turnarounds without the need to relocate or add to the roadway and, consequently, help avoid further encroach on wetland.

Motion: Move to approve this waiver of Article 11 Section 8.(6)(d)2 limiting the number of curb cuts, this addresses traffic safety due to three different uses on the site.

Moved: J. Dunn

Second: K. Hafer

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

4. Waiver of the planting strip required where an on-site walkway abuts a parking area per Article 11 Section 8.(8)(b).

According to O. McCullough, a 2-ft. planting strip would serve no purpose, but potentially be a hazard or at least an obstacle at a Public Services facility having heavy equipment moving about. Instead, McCulloch said, this project would have a single, 10-ft. landscaped island at the front of the building.

J. Dunn asked if there was going to be a vegetation buffer separating the site from Sea Road, and O. McCullough answered in the affirmative. He repeated that a 60-ft. strip of woods would be retained along the front of the site. According to McCullough, his group's studies suggest that abutters should not experience any truck headlight trespass because of this buffer.

C. Osterrieder observed that this particular waiver is commonly requested. Because of this project's many bay doors and the movement of heavy equipment on site, this waiver, Osterrieder said, was "entirely reasonable."

Motion: Move to approve this waiver of Article 11 Section 8.(8)(b), the two-foot planting strips, due to the large due to large vehicle circulation.

Moved: J. Dunn

Second: K. Hafer

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

The Board then proceeded to consider Findings of Fact.

**Town of Kennebunk
Site Plan Review Board**

FINDINGS OF FACT

1. Project Name: Public Services Facility Expansion
2. Date of Action Taken: June 29, 2023
3. Site Location: 36 Sea Road
4. Zoning District: Suburban Residential & Shoreland Overlay
5. Lot Size: 74.5 acres
6. Assessor's Map 75 Lots 40
7. Property Owner: Town of Kennebunk
8. Applicant: Town of Kennebunk
9. Representative: Owens McCullough – Sebago Technics
10. The applicant has shown legal interest in the property by deed.
11. The Kennebunk Site Plan Review Board has reviewed the above noted proposal utilizing the set of approval criteria in Article 11, Section 8 of the Kennebunk Zoning Ordinance as summarized below and determined:

Approval Criterion # 1

The plan preserves the natural landscape insofar as practical and adequately uses the natural features of the site and/or new landscaping to define, soften, and screen the impacts of development.

Criterion is: met X, not met _____, or not applicable _____ with the following conditions, waivers, and/or comments:

Approval Criterion # 2

For a nonresidential project, effective buffers are maintained or created between it and adjoining residential properties and residential zoning districts.

Criterion is: met X, not met _____, or not applicable _____ with the following conditions, waivers, and/or comments:

Approval Criterion # 3

Filling, excavation and earth moving activity is carried out in a way that keeps erosion and sedimentation to a minimum.

Criterion is: met X, not met _____, or not applicable _____ with the following conditions, waivers, and/or comments:

Approval Criterion # 4

Adequate provision has been made for surface drainage, so that removal of storm waters will not have an unreasonably adverse effect on neighboring properties, downstream water quality, soil erosion, or the public storm drainage system.

Criterion is: met X, not met _____, or not applicable _____ with the following conditions, waivers, and/or comments:

Approval Criterion # 5

Adequate provision has been made for water supply and sewage disposal.

Criterion is: met X, not met _____, or not applicable _____ with the following conditions, waivers, and/or comments:

Approval Criterion # 6

The site plan provides for safe access to and egress from public and private streets, with adequate parking and internal circulation.

Criterion is: met X , not met , or not applicable with the following conditions, waivers, and/or comments:

Approval Criterion # 7

Vehicular access to the site will be on roads which have adequate capacity to accommodate any additional traffic generated by the development.

Criterion is: met X , not met , or not applicable with the following conditions, waivers, and/or comments:

Approval Criterion # 8

The site plan provides for safe pedestrian circulation, both on-site and off-site.

Criterion is: met X , not met , or not applicable with the following conditions, waivers, and/or comments:

Approval Criterion # 9

Exterior lighting does not adversely affect neighboring properties or streets.

Criterion is: met X , not met , or not applicable with the following conditions, waivers, and/or comments:

Approval Criterion # 10

Electrical and telephone utility lines and components serving the site will be placed in a manner that is not hazardous or unsightly.

Criterion is: met X , not met , or not applicable with the following conditions, waivers, and/or comments

12. In their review, the Board finds that the criteria of Article 11, Section 8 of the Zoning Ordinance:

- _____ Have been met or are not applicable
X Have been met with the conditions and/or waivers:

Waivers:

1. Article 11 Section 6.B.(3) – Soils Map – High Intensity Soil Survey
2. Article 11 Section 8.(1)(f) – Every effort shall be made to avoid surrounding the building with asphalt
3. Article 11 Section 8.(1)(g) – parking – terminal islands
4. Article 11 Section 8.(6)(d) 2. – New Curb Cuts – limits of 2 per site
5. Article 11 Section 8.(8)(b) – Where an on-site walkway abuts a parking area – planting strip of at least 2-feet is required.

Conditions:

- Respond to Town Planner and Code Officer comments;
- Respond to comments from the third-party engineer;
- Submit the approved final permit from Maine State DEP;
- Maintain dog park dog size separation and water access;
- Submit final approvals from the Water and Sewer Districts; and,
- Obtain Code Office approval for any signage.

_____ Have not been met (list criteria not met) or are not applicable

Based upon the information above, the Board therefore:

_____ approves the Site Plan.

X approves the Site Plan with conditions **which are to be completed & evidence filed in the Planning Office within 120 days; and prior to permit.**

_____ denies the Site Plan.

13. PLEASE NOTE THAT the Following apply:

X AFTER SITE PLAN APPROVAL AND PRIOR TO OCCUPANCY, THE APPLICANT MUST RECEIVE A BUILDING AND OCCUPANCY PERMIT FROM THE CEO.

N/A A BUILDING PERMIT SHALL NOT BE ISSUED BY THE CODE ENFORCEMENT OFFICER UNTIL THE APPLICANT FILES A PERFORMANCE GUARANTEE IN CONFORMANCE WITH ARTICLE 11. SECTION 10. (ZONING). **THIS GUARANTEE SHALL BE REVIEWED PRIOR TO ISSUANCE AND THE AMOUNT SHALL BE AGREEABLE WITH TOWN.**

14. This approval is dependent upon, and limited to, the proposals and plans contained in this application and supporting documents submitted and affirmed by the applicant, as well as any oral representations made to the Board during

the final review of the project. Any variation from the plans, proposals and supporting documents is subject to review and approval by the Site Plan Review Board, except for de minimus changes, which the Town Planner may approve.

APPROVED BY:

DATE: _____

Motion: Move to approve the Findings of Fact.
Moved: B. Robinson
Second: K. Hafer
Vote: Show-of-hands vote, 4 votes in favor, none opposed; the motion carried.

B. Howard then enumerated the several conditions of approval which the Board had cited from time to time during its reviews of this project:

- Respond to Town Planner and Code Office comments;
- Respond to comments from the third-party engineer;
- Submit the approved final permit from Maine State DEP;
- Maintain dog park dog size separation and water access;
- Submit final approvals or email confirmations of approval from Kennebunk Water and Sewer; and,
- Obtain Code Office approval for any signage.

Motion: Move to approve this Site Plan based on the information and with the conditions above.
Moved: B. Robinson
Second: K. Hafer
Vote: Show-of-hands vote, 4 votes in favor, none opposed; the motion carried

After the vote, B. Howard reminded the Board that all final materials had to be submitted to the Board within 60 days of the Board’s approval. This, she said, might not be feasible as there is a backlog at Maine DEP and that agency’s final permit might take more time. Howard therefore suggested that the Board approve a 120-day deadline instead. O. McCullough concurred. Howard said that the usual performance guarantee might also be waived because the Town already had a bond in place and confirmed sources of funding. Board members concurred.

Motion: Move to waive the performance guarantee and extend the deadline for submission of final documents to 120 days.

Moved: K. Haber

Second: B. Robinson

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

b. Site Plan Amendment — Pilot House — 2 Harbor Lane — Map 88 Lot 11

B. Howard then re-introduced the application of Kyick Holdings LLC for modifications of the “Pilot House” restaurant.

This project, Howard reminded the Board, had been approved by the Site Plan Review Board at its meeting of February 15, 2023. The approval was specifically for (a) construction of a new restaurant to replace the existing one, and (b) the dry-docking of a ship now located in the river. The applicant now sought to modify the location of the proposed new building.

According to B. Howard, the new building’s revised location, including overhang, would still meet Contract Zone setback requirements. However, the change would nevertheless entail several modifications: (1) the building would shift 2.5 feet closer to Western Avenue; (2) the ADA ramp would be accordingly modified; and (3) Note 8 in the plan had already been amended to reflect the building’s correct building length [86 feet].

Howard also reported that the Fire Chief had reviewed the project and requested that the corridor between the proposed building, fence, and the other business be kept clear at all times. The Fire Chief also asked that signage be installed informing the public of this requirement.

Kylie Raymond, one of the applicants, addressed the Board and explained the reason for the changes. An error was discovered in that the original plan positioned the proposed building slightly inside a setback. The applicants therefore proposed “a minor shift” of the building’s location.

B. Howard stated that it was for the Board to decide whether this change was, indeed, “minor” and could be immediately approved or whether this modification required further Board review and a second Public Hearing. After brief discussion, Board members agreed that the modification was minor in nature and did not warrant an additional Public Hearing.

Motion: To accept the change as diminutive in that it does not change the functioning of the building or any operation of the site. The Fire Department has noted that the corridor needs to be kept free at all time with a [posted] sign so stating.

Moved: J. Dunn

Second: K. Hafer

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

4. Other Business

B. Howard recommended that the Board elect officers at its next meeting of July 20, 2023. She offered to provide members with hard copies of the Handbook for Board Members as well as copies of the Town's Ordinance. Howard then bid farewell to B. Robinson as this was Ms. Robinson's last meeting. Howard and Board members saluted B. Robinson and thanked her for her 18 years of Board service.

K. Hafer suggested that future Board meetings automatically begin with a verbal preface as to what this Board can and cannot do per Kennebunk's Ordinance. "The Board's role," Hafer said, "should be clarified at the outset." Other Board members concurred.

5. Adjournment: There being no further business, the Chair adjourned the meeting at 9:41pm.

Motion: Move to adjourn today's meeting.

Moved: J. Dunn

Second: B. Robinson

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

Respectfully submitted by,
J. Schlagheck

Adopted by the Site Plan Review Board at its meeting
of July 20, 2023

Signed by



Site Plan Review Board

