

**Town of Kennebunk**  
**Planning Board**  
**Meeting Minutes**  
**Monday, January 14<sup>th</sup>, 2019**

**Present:** Chris MacClinchy—Chair; Janice Vance; Edward Trainer—Alt.

**Absent:** David Smith—Secretary; Robert Metcalf; Richard B. Smith—Vice Chair

**Also Attending:** John Stoll—Town Planner

**1. Open Meeting**

C. MacClinchy opened the meeting at approximately 7:00 PM. Today is Monday, January 14<sup>th</sup>, 2019

**2. Agenda Items**

C. MacClinchy states that the first item on the agenda is for rezoning tax map 43, lot 65 from Village Residential to Portland Mixed-Use District. He states that it looks like a citizen petition.

J. Stoll states that [the application] is a concept discussion that he recommended would be a good idea prior to initializing a formal zoning request due to the time and cost “of those things.” He states that he wants to gauge the Board’s opinion. He states that [the request is for] tax map 46, lot 65. He states that it is “right near” downtown and is adjacent to the PRMU.

Dave Bernette [introduces himself as the applicant]. He states that J. Stoll explained what he is trying to do with the zoning change. He wonders if the Board has any questions.

C. MacClinchy wonders if it is the site of the former tavern. D. Bernette states that it is.

C. MacClinchy states that the main reason [D. Bernette] is looking for a change is because he would like to do weddings and events, and [those activities] are not permitted in the Village Residential zone. D. Bernette states “correct.”

C. MacClinchy states that this is assuming that [type of activity] is permitted in the Mixed-Use zone, [it is]. He wonders if the Board has any comments.

J. Vance states that she is glad to see something proposed for the building. She states that her question is [about abutters]. She notes that to the south [of the property] is a private home. She states that, having not done a site walk, her biggest concern would be shielding the private home from noise or “anything else” by means of appropriate screening, whether that is fencing, landscaping, etc.. She states that the second concern she has is how much room there is for parking. She wonders if there is a limit to the number of guests or cars.

D. Bernette states that he was looking at lots and parking spots. He states that he would shuttle a lot of the [attendees]. He states that the neighbor came over and introduced himself to D. Bernette. D. Bernette states that he mention to [the neighbor about making the area] a venue. [The neighbor said], “you have my blessing.” D. Bernette states that the neighbor said he would work for him and that it would be nice to keep the place and do that than develop some of it. D. Bernette states that he would like to keep it as it is and restore it and gets some income out of it. He states that he would restore the barn and “start off with that,” and then continue to restore the house.

J. Vance states that those are the concerns she has.

D. Bernette states that he is working around the property. He notes that he is trying to talk to the neighbors and see “how they feel.” He states that he doesn’t want to be “bumping heads” with anyone. He notes that if everyone agrees it would “be nice to have.”

E. Trainer states that having energy on the spot on Portland Road would be a benefit. He states that if D. Bernette was planning to restore [the property], the noise abatement, parking [and] traffic would have to get all worked out and there would be a lot of opinions in public hearings. He states that he hasn’t been through this zoning process but he imagines it is thorough.

C. MacClinchy states that there is a whole public process. He notes that it goes to Town meetings for a vote.

E. Trainer states that if [the Town] wants to keep “this” historic structure, sort of like “Wallingford” [Farms], [it would be possible] if all these issues would be resolved in the course of public hearings and a Town vote.

D. Bernette states that he thinks there would be “very little impact.” He states that it would be 6-months running and then quiet during the Winter. He notes that he has a lot of background in [events]. He states that his daughter is a graphic designer and “does weddings,” and that his daughter-in-law is a bartender for weddings. He states that he understands noise “and things like that” need to be addressed.

J. Stoll states that R. Smith [who is absent, sent in his opinion on the issue and said that] the wedding venue would be a good use, [but that he was concerned about] the traffic, the impact to residential properties and the parking. [R. Smith] stated that the next step would be finding what the impact would be, [which could] require a study.

C. MacClinchy states that part of this property is in the historic district. He wonders how this impacts [the process of] approval. He wonders how this works on a split lot.

J. Stoll states that it would be part of the site plan approval. He states it would go through historic review. He notes that he doesn’t know if it would be part of the amendment process.

C. MacClinchy states that [the Board] mentioned it at one point when they were discussing the Portland Mixed-Use area. He wonders if [the Board] was considering this lot initially.

D. Bernette states that the previous owner told him “that.”

C. MacClinchy states that “historically” it was a tavern and had commercial use. He states that it hasn’t had much use in the past 12 or 13 years. He states that he thinks its days as purely residential lots are “gone by the way-side.” He notes that [the lot] would be split “if anything at this point.” He states that if there is anything [the Board] can do to save the building and encourage its reuse he is “all for that.” He states that he is in support of rezoning if [the Board] can get some answers and “other things.” He notes that he doesn’t think it is a bad idea.

J. Vance states that [the changes need to] maintain integrity and protect neighbors. She states that she is glad [D. Bernette] spoke with his neighbors. She states that there are more residences and it would be important to “bring them into the loop.” She states that she doesn’t have a problem considering a rezoning.

C. MacClinchy states that [the Board] would want to know how [D. Bernette] would deal with parking. He states that [the Board] would want a study or a plan to have offsite parking with a shuttle. He states that [the Board] would want to know how the site would work. He states that [the Board] would want to know if events would be inside or outside and what part of the property they [would use].

D. Bernette states that where he lives there is a Bed and Breakfast right next to him and they have weddings there and he would be the first one to complain, but that it isn’t as bad [as one would think]. He states that he has had several weddings in his historic home. He states that there is a lot more parking with some of the lots he is looking at and on the side street. He states maybe the cemetery. He notes that there are “quite a few” that could be shuttled to.

C. MacClinchy states that he would have to talk with the property owners during events and come up with a more formal type of plan, [including] how many people you would host. He state that it is always something that [the Board would] be receptive to hearing more about and he thinks it is probably not a bad idea. He states that it fits the Mixed-Use zone and that it is up to [D. Bernette] to follow-up.

D. Bernette states that the “guy that owned” [the property] didn’t touch it in 12-years. He states that it needs to be taken care of and restored. He states that if he could do that, it would really look nice. He states that [the Board] would be happy with what he does with [the property].

C. MacClinchy states that he thinks the Town would be supportive of getting the property back in shape.

J. Stoll suggests that [the Board] schedule a meeting and get an application item. He suggests telling [the applicant] what the Board would want and then the process can begin.

C. MacClinchy states that, to give the time line of the “way it works,” [the change] wouldn’t get on the “warrant” for June, it would be November [of 2019]. He states this is because it would need to be “wrapped up here” in March to get on the June warrant and he is not sure there is time. He states that would be “basically” two meetings between now [and March] for moving [the project] forward for a June vote.

C. MacClinchy states that the next item on the agenda was a discussion with the Conservation Commission, but J. Stoll informed [the Board] that they are “tabling that” to another meeting. C. MacClinchy moves on to the York Street Mixed Residential and commercial zoning district space and bulk standards that [the Board] has been working on.

J. Stoll states that [the Board] has been looking at the York street MCRU district to change the space and bulk standards. He states that when [the Board] talked last time, they came to a consensus about what [the Board] wanted for minimum lot size. He states that [the Board] asked that whatever was done wouldn’t prevent mixed-use project from happening “there” because that was the purpose. He states that he verified that the way it is written now, it would not be an issue. He states that he changed “two things.” He notes that one thing was on the last page. He states that “E” was “struck out” before, and that would be 2E under performance standards, he took the strike out on that because it has to do with non-conformity and “for the time being” he thinks it makes more sense to leave it in. He states that the other change he made was putting back in the language that was in there about low-impact development and impervious surfaces. He states that after the review of the minutes and his notes, that was the option the Board was looking for. He states that what he put in there can be [reverted back] if the Board chooses. He states that what it would allow for is “you have” 50% of a lot that could be developed “right now,” but if you use low-impact development you could increase it to 75% at the discretion of the Planning Board. He notes that this way the Board could look and see if it was real LID or if it was just a “little bit of grass” on the side and we are “calling it LID.” He states that he could come up with a set of points “maybe” of what [the Board] would consider to be LID. He states that he has a “decent list of those sorts of things.” He states that it is a gray area and he isn’t sure how much the Board wants to leave.

C. MacClinchy states that [the Planning Board] might not see those projects. J. Stoll agrees. C. MacClinchy states that he guesses that if [the Board] does that, do they want to be more specific on the types of low impact development they are looking for or some type of point system. He states that the [document] states that it is the interpretation of the Planning Board, but it is actually the Review Board. J. Stoll states that C. MacClinchy is right.

C. MacClinchy states that [the Board] isn’t necessarily reviewing the project in mixed-use. He suggests making this [part of the document] stronger and having more clarity.

J. Stoll states that he can come back in with a set of acceptable LID [standards] to see if they are too strict “or something.” He states that the “only other thing” would be to explain removing the

references to mixed-use and space and bulk because they deal with the minimum net lot per dwelling unit. He states that they have already defined a minimum net lot area and it won't affect the minimum net lot in any way. He notes that if you have a minimum net lot area of 10,000-square feet, it is under "other," so if there is sewer, you will add on.

C. MacClinchy wonders where J. Stoll is "talking about."

J. Stoll states that [he is referencing] the line [the Board] asked him to verify on the second page, "minimum net lot per dwelling unit on a mixed-use lot." He states that he still felt that it could be removed without "affecting it," because you have already defined a minimum net lot area. He states that now you have the minimum net lot unit per dwelling area above that. He notes that what [it is] "basically saying" is that every lot needs to have 10,000-square feet if it is on sewer. He states that once [the Town] gets above two residential units, you would have to start "tacking on" square footage. He states that this keeps it a "small number" but it also defines a minimum, so if there is a commercial lot, it could be 10,000-square feet.

J. Vance states that on the first page it says 20,000-[square feet for] multi-family, then "here" it says 10,000-[square feet]. She wonders if there is a better way to make it less confusing.

J. Stoll states that it is a little confusing. He notes that most of the time when you see that the zones define a minimum net lot area, they usually don't change by use for minimum net lot areas. He states that Kennebunk is a little different in how "they do that." He states that "no matter what" there are three different types of uses. He states that for hotels and motels it is 40,000-[square feet]. For multi-family or any other use [has a] minimum of 10,000-[square feet]. He states that if you want a duplex you would have to have 10,000-square feet minimum net lot areas. He notes that on the next page, per dwelling unit you need 5,000-square feet on sewer. He states that if you have 2 [dwelling units] to meet the minimum net lot, you have to have 10,000-square feet, but if you want 3, then it will be 15,000-[square feet].

J. Vance wonders if there is a better way to "lay it out." She states that she can see ways to lay it with columns with uses and with explanation lines. She states that [the Board's] intent would be clearer, so cumulative is added on to the base. J. Stoll states that he can show J. Vance an example.

C. MacClinchy states that one issue is that it is the same chart that is in [all the] zoning districts. He states that if you changed "this one," then [it would be a big project].

J. Vance states that she doesn't know if "someone" will want to "interpret it."

C. MacClinchy states that, as J. Stoll explained, there was a lot of confusion on how "this was before." He states that it wasn't consistent, and he thinks that [the new version] is a lot clearer. He states that it is not perfect and that he agrees that [it could be] a lot easier to read or digest.

J. Stoll states that if you look at article 8 on page 30, "it" does it the way most towns would do "it," with the flat minimum lot of 25,000-square feet and you have to tack on per dwelling unit. He

states that what we are doing here doesn't make it anymore confusing than it already was. He agrees that it is confusing. He states that all [the Board] has done is eliminate the mixed-use section. He states that this is part of the "clean-up" and if this is gone through, if you change the table you have to change "everything." He states that he "wouldn't mind it" [though].

C. MacClinchy states that it won't "get done by June."

J. Vance states that under "Performance Standards Shared Access," move "this" into the chart or under the chart with the district because it is a calculation rather than a "oh, by the way." She states that it seemed to her [to make sense to] include it in the chart, because there is the minimum lot width standards on the previous page.

J. Stoll states that this is another "thing" about the ordinance. He states that he thinks it can be done with a footnote. He states it could say "2A" and [it would] draw attention.

J. Vance states that she would "move it to the left" and put the minimum width of the green perimeter strip by the title. She suggests taking "explanation" and "tucking" it under the title. She states that it is a lot to read through to discern what it means if you can do it in a chart. J. Stoll agrees.

J. Vance wonders if there are definitions for the chapter. J. Stoll states that they are not independent from the ordinance.

J. Vance states that if it is already defined somewhere else, it doesn't need to be "here" for green perimeter strip.

J. Stoll states that it is "defined here" [in the ordinance]. He states that if this explanation is different for this zone than other ones, then it would "slide" under performance standards. He states if it was the same, it would be eliminated. [Upon examining both documents], he states that it is a little different.

J. Vance states that the definition could be in the main body and if something deviates from the standard for this zone, a note could be made of the deviation.

J. Stoll states that the "big difference" between "this" [the document] and the definition is that it requires "for any lot unless it contains a single-family residence, whose side or rear yard borders a residential..." He states that the "rest of that" is the definition of the green perimeter strip from the ordinance. He states that the "bottom part" is a separate performance standard. He states that he can split it and move it down, considering a perimeter strip is a standard part of most ordinances, making a performance standard section that says, "green perimeter strip" that "calls out" any of the things in that section isn't that bad of an idea. He notes that it can always be footnoted and called attention to, [but] you're not going to "catch that." He states that if there is no code enforcement or planner [to help navigate the document], you can get "tripped up."

C. MacClinchy states that besides it being a lot of words, he doesn't have a big issue. He states that if J. Stoll can make it easier by "cleaning it up," then he knows what [they are] saying.

J. Stoll states that he can make two different [versions]. C. MacClinchy states that he doesn't know if it will change it or reorganize it. He states that he doesn't know if it makes it more confusing when [the Board] asks the voters to approve it.

J. Vance states that she is not "getting rid of it," but just putting it in a place that is applicable to more zones, [with] less to "wade through" [for] individual regulations.

C. MacClinchy states that if [J. Stoll] has time and thinks there is a benefit [he could do this], but if he can't get to it, it's "okay."

J. Stoll states that he will keep one and then he will do another one and have both.

C. MacClinchy states that J. Stoll had other questions about "C," he wonders if [the Board] talked about that.

J. Stoll states that this is going back to another idea he had because [the Board] had recommended that he focus on connecting the perimeter buffer with multi-family to the existing site plan buffer, so he included those "in there." He states that he can work "with that" and can do "things with that." He states that it can work if there is discretion. He states that the site plan calls for specific things. He notes that he made a recommendation [for the section beginning], "when it is not practical for [a] 50-foot landscape buffer to be divided..."

C. MacClinchy wonders if it is when it "follows those." J. Stoll states that it is a good question for the attorney.

C. MacClinchy states with 8.2 there are a couple of ways to do less than 50-foot buffers if that is "what you're saying." He states that he thinks it is okay.

J. Stoll states that "something like" utilizing standards. He states that he can get a legal opinion. He notes that he doesn't want to bind [the Board] "on that," if [the Board] wants to use "those" to have flexibility to weigh in on "that."

C. MacClinchy states that he doesn't think the 50-foot [buffer] is necessary everywhere.

E. Trainer states that he is learning "all this" and it makes a lot of sense. He states that he is thinking practically about proceeding.

C. MacClinchy states that the next [item on the agenda] is other/informational items. He states that if [the Board] is ready for a public hearing in February, he doesn't know if there is much left to tweak. He states that he guesses that J. Stoll might [show the Board] another version [of the document].

J. Stoll states that if [the Board] wants a public hearing, they will have submission requirements that can be adopted at that meeting. He states that if [the Board] feels comfortable with the perimeter buffer or MCRU, we can revise it and do it again.

C. MacClinchy states that [the Board] can come back in March and do it. He states that he thinks that [the board] is “good on those.” He wonders if J. Stoll has plan sheets for [the Board] to sign. J. Stoll states that he has some.

C. MacClinchy states that the other members can stop in and sign if they get a chance.

### **3. Approval of Minutes of Previous Meeting**

C. MacClinchy begins the approval of the previous meeting minutes from Monday, December 17<sup>th</sup>, 2018.

J. Vance moves to approve the Town of Kennebunk Planning Board meeting minutes for Monday, December 17<sup>th</sup>, 2018, as corrected.

E. Trainer seconds the motion.

All are in favor, none opposed. The motion passes 3/0.

### **4. Other Business**

C. MacClinchy wonders if “this Saturday morning” is the open house for the Comprehensive Plan.

J. Vance states that it is from 9am-11:30am.

### **5. Adjourn**

J. Vance moves to adjourn.

E. Trainer seconds the motion.

All are in favor, none opposed. The motion passes 3/0.

Meeting adjourned at approximately 7:54 pm.

Respectfully submitted by Megan Hall.



**Signature Page:**

*C. M. Li* 1/28/19  
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*Robert Train* 1/28/19  
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*Janice Dana* 1/28/19  
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**Signature Date:**

