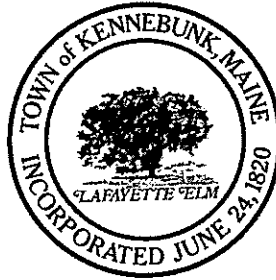


# Town of Kennebunk, Maine



## Planning Board MEETING MINUTES February 14, 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], and William Ward, Jr. [Select Board Liaison]

1. **Call to Order:** Chair and presiding officer C. MacClinchy called the meeting to order at 7:01pm on February 14, 2021 via Zoom teleconferencing in keeping with the Board's "Remote Meeting Policy" for COVID safety.

### 2. Agenda Items

#### a. Public Hearing — Minor Subdivision — 1 Cedar — Map 17 Lot 24

B. Howard summarized this case: Applicants Christian and Paul Hollis [Ambrosia Investments LLC] seek authorization to create two [2] residential lots on 1.87 acres. The existing lot area is 81,457 sq. ft. and the minimum net lot area per lot is 20,000 sq. ft. The land, Howard said, is vacant and located in the West Kennebunk Village Residential zone.

B. Howard added that this applicant also seeks two waivers: (1) waiver of the hydrogeological assessment otherwise required by Subdivision Standards 6.3.C.3; and (2) a reduction of the 50 ft. ROW (otherwise required by the Addendum, Street Standards, Section 8.6.2.D) to 30 feet.

The plan, Howard further noted, had been vetted by the Fire Department. The applicants, she said, had also added three notes to the plan: (1) Note #13 prohibiting future access to the abutting rear parcel; (2) Note #16 concerning the utility pole removal; and (3) Note #17 confirming that there would be no further division of the property in the future.

C. Hollis explained that the three notes were responses to the Board's prior feedback. He additionally asked for a third waiver, requesting authorization to put in a 16-foot paved roadway with 2-foot gravel shoulders on each side instead of the required 18-foot paved roadway with 2-foot shoulders.

E. Trainer and J. Vance initially voiced the view that the Town's 18-foot roadway standard should be honored. However, R. Metcalf, R. Smith, and D. Kiley agreed that a 16-foot roadway would be sufficient as it would only serve two lots. B. Howard additionally observed that Kennebunk's Fire Chief had no issues with 16 foot roadway since it would only be serving on house and the lot will not be developed further.

C. MacClinchy formally opened a public hearing. There being no public comment or question, the presiding officer closed the public hearing. MacClinchy then led the Board in a review of each of the waivers requested. In all three instances, C. Hollis justified the waivers with the rationale that only two lots were being created and the roadway length was minimal. C. MacClinchy elevated alternate member E. Trainer to voting status for the purpose of this meeting.

**Waiver #1: Waiver of the hydrogeological survey required by Subdivision Standards 6.3.C.3.** B. Howard informed the Board that applicants supplied the Board with test pit data and had submitted an NRCS report. Board members deemed this to be satisfactory.

Motion: Move that the Planning Board of the Town of Kennebunk grant a waiver of the hydrogeological assessment required by Subdivision Standards 6.3.C.3.

Moved: R. Metcalf

Second: R. Smith

Vote: Roll-call vote, 5 votes in favor [J. Vance, R. Smith, R. Metcalf, C. MacClinchy, and E. Trainer], none opposed; the motion carried.

**Waiver #2: Waiver of the Addendum, Street Standards, Section 8.6.2.D for change of the ROW from 50 to 30 feet.** Again, applicant C. Hollis justified this as "a fair request" as there will only be two lots and there will not be further development of the second lot.

Motion: Move that the Planning Board of the Town of Kennebunk grant a waiver of the Addendum, Street Standards, Section 8.6.2.D to change the ROW from 50 to 30 feet since no further division of the property will be made.

Moved: R. Metcalf

Second: R. Smith

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

**Waiver #3: Waiver of the requirement for an 18-ft paved roadway with 2 ft. shoulders on each side.** The same justification for this waiver was cited and accepted by the Board.

Motion: Move that the Planning Board of the Town of Kennebunk approve the request for amendment of the Road Standards to permit a 16-ft. paved roadway with 2-ft. gravel shoulders on each side instead of the 18-ft. paved roadway otherwise required.

Moved: R. Metcalf

Second: R. Smith

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

The presiding officer then proceeded to Findings of Fact.

## **Town of Kennebunk Planning Board**

### FINDINGS OF FACT AND CONDITIONS OF APPROVAL

#### FINAL MINOR SUBDIVISION PLAN OF Ambrosia Development Subdivision Name

1. Property Owner: Carol & Paul Berube has shown legal interest in the property (deed).
2. Site Location: 1 Cedar Lane
3. Size and # of lots/units: The creation of two lots & two single family homes
4. Zoning District (s): West Kennebunk Village Residential (WKVR)
5. Assessor's Map: 17 Lot: 24 (parent parcel)
6. Applicant/Representative: Ambrosia Development & Investments (Chris & Paul Hollis) has shown legal interest in the property (Purchase and Sales).
7. INFORMATION REVIEWED BY PLANNING BOARD:
  - Staff reviews (Planner, Fire Department): X
  - Sketch Plan: 11/22/2021
  - Site Walk completed by Board: 12/4/2021
  - Completeness: 1/10/2022
  - Public Hearing: 2/14/2022
  - State/Federal Reviews: N/A

#### WAIVERS:

1. Subdivision Standards - 6.3.C.3 - Hydrogeological Assessment
2. Subdivision Standards Addendum - Street Standards - Section 8.6.2.D - ROW width – 50 feet is required this was waived to allow 30 feet

3. Subdivision Standards Addendum - Street Standards – Table A – Local Travel Way Width - 18 feet is required this was waived to allow 16 feet with 2 foot shoulders

CONDITIONS

1. The road profile on the plan shall be updated to reflect the granted waiver.
2. The waivers shall be added to the plans.
3. The north arrow reference shall be updated to note 3.

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

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  
There is a sign off letter from Kennebunk, Kennebunkport, & Wells Water District stating they have the capacity to serve the lot.

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  
See 2 above.

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

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:  
This is a two lot subdivision and will not significantly increase traffic.

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  
This will be an onsite subsurface system and municipal services will not be utilized.

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 Town can handle the disposal of solid waste and the municipal sewage system will not be utilized.

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

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

Rationale for negative determination: \_\_\_\_\_

10. **Financial and technical capacity.** The sub divider 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

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

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

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

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  
There is no stormwater infrastructure being constructed other than the culvert at the road way entering the property along the roadside (Alfred Road) ditch.

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

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

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 \_\_\_\_\_, not met \_\_\_\_\_, n/a  X , met with following conditions and or waivers

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 \_\_\_\_\_, not met \_\_\_\_\_, n/a  X , met with following conditions and or waivers

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 \_\_\_\_\_, not met \_\_\_\_\_, n/a  X , met with following conditions and or waivers

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\_\_\_\_\_, not met\_\_\_\_\_, n/a \_\_\_X\_\_\_, met with following conditions and or waivers

Rationale for negative determination: \_\_\_\_\_  
\_\_\_\_\_

- B. Article 11, Section 8** (As applicable for multi-family and non-residential subdivisions) – **N/A the project is single family subdivision.**

\*\*\* Based on the above noted findings, the Kennebunk Planning Board votes to

\_\_\_\_\_ approve,  
  X   approve with the conditions noted above, or  
\_\_\_\_\_ deny

**The Final Plan Application of**

**Ambrosia Development**

**Subdivision Name**

Motion: Move that the Planning Board of the Town of Kennebunk approve (1) the Findings of Fact and Plan, (2) conditions of approval, and (3) overall application of Ambrosia Investments LLC, owners Christian and Paul Hollis, 1 Cedar Lane, Map 17 Lot 24 with the above three [3] approved waivers for the minor subdivision and creation of two [2] lots.

Moved: R. Metcalf

Second: R. Smith

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

- b. Public Hearing — Zoning District Boundary Change Proposal — “Village Residential” to “Portland Road Mixed Use” — 9 Barnard Lane — Map 43 Lot 65**

B. Howard reminded the Board that the owners of 9 Barnard Lane, Randy and Kari Gates, had come before the Board on January 24, 2022 to have the zoning of their property at 9 Barnard Lane changed from “Village Residential” [“VR”] to “Portland Road Mixed Use” [“PRMU”]. Their property directly abuts the PRMU District. They want the boundary of the PRMU District extended to incorporate their property.

The purpose of today’s review was to have a public hearing on the application. Howard observed that the owners also have an on-going application before Kennebunk’s Historic Preservation Committee. However that HPC application, Howard said, is an altogether separate matter and distinct from the zoning consideration before the Planning Board.



Robert Georgitis, representing the applicants, explained that this lot had been “left out” of the PRMU zone when it was originally created because the then owners of the property saw no advantage in such a transition. The current owners, he said, do.

C. MacClinchy formally opened a public hearing, but there were no public comments or questions. MacClinchy closed the public hearing.

E. Trainer stated that he was “comfortable with the application as presented”. Other Board members concurred. R. Smith thought leaving the property zoned VR was a good separation between the residential neighborhood and the commercial uses on Route 1.

Motion: Move that the Planning Board of the Town of Kennebunk pass on to the Select Board with positive recommendation the application of Randy and Kari Gates for a zoning boundary change for 9 Barnard Lane from Village Residential [VR] to Portland Road Mixed Use [PRMU].

Moved: R. Metcalf

Second: E. Trainer

Vote: Roll-call vote, 4 votes in favor, 1 opposed [R. Smith]; the motion carried.

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

C. MacClinchy then led the Board in a page-by-page review of the minutes of its January 24, 2022 meeting. The need for one alteration was noted and duly made.

Motion: Move that the Planning Board of the Town of Kennebunk approve the Minutes of January 24, 2022 meeting as corrected.

Moved: R. Metcalf

Second: R. Smith

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

### **4. Other Business**

Members next discussed the continuation of teleconferencing meetings going forward. B. Howard stated that the Select Board was still not comfortable with reverting to in-person meetings at this time. However, the Planning Board, she said, could make its own decision regarding its first March meeting, the March date allowing for the required public notification.

J. Vance was of the view that the Planning Board should not rush into in-person meetings as the COVID infection rate in the area is still high. All members informally agree to continue Zoom meetings for the time being and revisit the topic in March.

### **5. Adjournment:** There being no further business, the Chair adjourned the meeting at 7:55pm.

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

Moved: R. Smith

Second: R. Metcalf

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 February 28, 2022

Signed by:



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PLANNING BOARD