

Town of Kennebunk

Planning Board

Meeting Minutes

Monday, April 8th, 2019

Present: Chris MacClinchy—Chair; Richard B. Smith—Vice Chair; Janice Vance; Robert Metcalf; Edward Trainer—Alt.

Absent: David Smith—Secretary

Also Attending: John Stoll—Town Planner

1. Open Meeting

C. MacClinchy opened the meeting at approximately 7:00 PM. Today is Monday, April 8th, 2019.

2. Agenda Items (I)

C. MacClinchy turns the meeting over to J. Stoll as [the Board] discusses zoning provisions and some “policy goal setting.”

J. Stoll states that the first thing he has on the agenda is a resident, Wayne Cutting, who has a situation at his house. He notes that he will have [W. Cutting] explain. He states [the situation] is regarding pigs and manure and the nuisance it can cause. He notes that [the Town] regulates horses but only regulates manure storage in the shoreland area. He notes that there are best management practices but he doesn’t know how the State enforces them. He states that W. Cutting is aware of how the zoning ordinance works, but that [J. Stoll] is trying to “bring people in” and let them talk [to the Board] first, before they submit a formal application.

Wayne Cutting introduces himself from 506 Alfred Road in West Kennebunk. He states that they have a problem with the neighbors keeping pigs. He notes that [the neighbors] had 5 [pigs] “last year.” He states that it was “unbearable.” He notes that he couldn’t sit on the deck. He states that if you “look at the picture” [he provided], he has Garth’s Greenery. He notes that the white line [on the picture] is where the pig pen was and on the left hand [side of the picture] is his well. He states that he has a shallow well that is 16-feet deep. He notes that—according to Google maps—[the distance between the pig pen and his well is] 118-feet. He notes that the red line [on the picture] is the property line. He states that on the “opposite side” there was a sales area [that was for W. Cutting’s cut flower business]. He notes that it was unbearably hot last summer and that he doesn’t pay \$5,600 in taxes so he can’t sit on his deck or do business. He notes that he has [customers] come in and say, “what’s that [smell].” He states that he is looking for some “method” and that J. Stoll suggested manure storage. He states that there should be a minimum distance from [pigs or

manure] from buildings and businesses. He notes that they have narrow lots that are only 100-feet wide but are deep. He notes that no matter where [his neighbor] puts [the pigs], it won't be any closer to [the neighbor's] house. He notes that he asked the neighbor to put [the pigs] on the other side of the property but he refused. He states that he is looking for some relief.

J. Vance wonders if the [the neighbor] sells [the pigs]. W. Cutting states, "no," [the neighbor] raises them for his own use and doesn't sell them commercially to his knowledge.

J. Vance wonders if the greenhouses [belong to W. Cutting]. W. Cutting states, "yes."

R. Metcalf wonders how long this has been going on. W. Cutting notes that [the neighbor's] father had [pigs] before he did, [but the father] had 1 [pig] at a time. He notes that it wasn't much of an issue. He states that now [the neighbor's] son has "the place" and they have 5 [pigs]. He states that he doesn't know if the [father of the neighbor] did a better job keeping the pen clean or if [it made a difference to just have] one pig. He states that last summer was very hot.

R. Metcalf wonders if [the pigs] are in the same location that [the neighbor's father] had them. W. Cutting states, "approximately."

R. Metcalf states that there are state regulations for the keeping of manure. He notes that he doesn't think it is just in shoreland zoning. He notes that [the Board in the past] looked at Riverhurst Farm. He notes that a former member of Site Review and was on the Comprehensive Plan [Committee] was raising red deer in the states and was familiar with state regulations in terms of keeping manure. He notes that this was something that should be looked into. He states that when [the Board] did zoning for dog breeding, dog waste was being disposed of on site. He notes that [the Board] did "something" with the dog ordinance. He states that they set parameters or had a "zone change" with "that particular lot." He notes that this is something to pursue.

J. Stoll states that he does have contact with the Code Officer and he hasn't heard back. He notes that the BMP's "they use" have 100-foot setbacks from wells, springs [and] property lines. He notes that he doesn't know if that is [concerning] spreading [of manure]. He states that he will let [the Board] know when he hears back [from the Code Officer] He notes that there is a 100-foot minimum distance from a well.

W. Cutting states that [his well and the pigs] are 118-feet [apart] but it is on a down-grade.

J. Stoll states that it is 300-feet [separation] if it is on a down-grade and is 100-feet [separation] if it is on an up-grade. He notes that he needs contact with [the Code Officer] and can go from there. He notes that there are BMPs.

W. Cutting states that he is not against people having pets or animals. He notes that his other neighbor has chickens and used to have a horse. He states that pigs are a different animal.

R. Smith wonders if [W. Cutting] had thoughts about what he would like to see for an ordinance to help rectify [the issue].

W. Cutting states that there needs to be a minimum setback from property lines, residences, and businesses. He states that “what that distance is” he doesn’t know. He states [it should be] a minimum of a couple 100-feet. R. Smith wonders [if he means] where the manure is stored or where the animals are. W. Cutting states, “either one.” He notes that he doesn’t think there is room for pigs to be raised given the proximity of all the houses [where he lives]. He notes that a lot of that land runs towards the power lines. He states there is limited amount of space where this can be done. He notes that if [the neighbor] comes “further down,” he would be right in the back of [W. Cutting’s] house.

J. Vance wonders what is on the “other end, the deep end.” W. Cutting states that it runs into the woods and the power line. He states that the back end of the lot borders the power lines, as does his [lot]. He notes that his [neighbor’s lot] is deeper than his. He states that his house is in the woods and there is a ravine and a small stream that runs through there and into the Mousam [River]. He notes that beyond there you “have to be a mountain goat.”

J. Vance wonders if the pigs are being kept near the stream. W. Cutting states that, “no,” they are a good distance from the stream. He notes that he was told the stream isn’t even on [the Town maps]. He notes you can step across it. He states that it starts in a spring by Yankee Land Campground. He notes that his well is only 16-feet down. He states that they have both the house and the greenhouses.

E. Trainer wonders what W. Cutting is growing in the greenhouses. W. Cutting states that [they grow] bedding plants, annuals, perennials. He notes that they store them “on the left end” where the well is. He states that [on the Google Map printout] “that black stretch” is ground cover; he notes that all the “odd patches of white” they had pulled off after they had uncovered [the plants]. He notes that they have perennials right behind the last two greenhouses. He states that the fence for the pigs [is near there] and if they are trying to sell Hostas, it was near impossible “last year.”

E. Trainer wonders if they are all flowers. W. Cutting states, “yes.” E. Trainer wonders if [W. Cutting] wants to sell [the flowers] on site. W. Cutting states, “yes.”

C. MacClinchy notes that they need to [get] answers about environment actions or some regulations that already exist in terms of livestock or pigs in general. He notes that [the Town’s] ordinance talks about livestock but he can’t remember the specifics of those limitations.

J. Stoll states that it “defines and breaks down” agriculture and addresses horses, not chickens and pigs.

C. MacClinchy states that [the Board could try and] put some more thought into the regulating of livestock in Town and the handling or waste and that “kind of thing” to prevent nuisance. He notes

that there is a nuisance ordinance that it probably falls under without getting too specific. He notes that [the Board] can look at it.

R. Metcalf suggests looking at the State [regulations and] sending an email to [the Town Attorney], as she represents so many communities. He notes that there may have been [other ordinances] in other communities. J. Stoll states that he will do this.

C. MacClinchy states that [the Board] needs to get an answer from J. Stoll. He states that [the Board] will work with [W. Cutting] to see what the “next steps” will be. He notes that if [J. Stoll] thinks they need to look at [the ordinances, then they will] and will see what they can do.

3. Agenda Items (II)

J. Stoll states that if [the Board] gives him a task he will work through [the task] and will look into the upcoming year. He wonders if [the Board] wants to maintain what they have “right now” with development review on the second meeting [of the month] and to have a policy meeting [on the first meeting of the month].

C. MacClinchy states that this is [the Board’s] intent. He notes that if [the Town] gets overwhelmed with development review then they can fit them in. He states that he thinks it is working okay. He notes that he doesn’t know what the needs will be. He wonders if there is not enough room for development reviews.

J. Stoll states that everything is fine. He notes that if there is a “big uptick,” if [the Board] schedules the public hearings “it works.”

J. Stoll notes that he wants to review an email that went out. He states that there are three “things” being worked on by “outside parties” with active zoning ordinance amendment applications. He states that one is the Conservation Commission Wetland’s Mitigation Ordinance, which [the Board] met with recently. He states that he heard that [the Conservation Commission] reached out to SMPBC for some additional support. He states that he is assuming [the Conservation Commission] will have something back “pretty soon,” but that he hadn’t followed-up with them yet. He states that then [the Board] has Mr. Dave Binnette, who is “going to” do the rezoning for the PRMU district. He states that this is not due to show up in the Historic Preservation [Committee until the] next month. He notes that [the Historic Preservation Committee] needs to review it before [the Planning Board does]. He notes that the Lower Village Committee has been working on design guidelines and standards. He states that he thinks that at some point [the Planning Board] might see [the guidelines and standards] coming up. He notes that these are the “three” that are “out there” right now “independently.” He states that [the Board] has also discussed over the last year, increasing residential density in the SR zone, some enhanced landscaping requirements, and increased wetlands protection. He wonders what [the Board] would direct him to work on for the next policy meeting.

R. Metcalf states that [the Board] talked about increased density that was for apartments, affordable and work-force housing, and to “piggy-back” that in to what [the Board] just started working on York Street. In notes that in the SR zone, most of it is not served by public sewer. He notes that there are some parcels that are either served by public sewer or are in “reaching distance” [of public sewer] which would be suitable for doing “such type” developments. He notes that looking “at it” in terms of density, it is worth looking at, especially because [the Town] had the issue of affordable housing and not in the “sense” of being subsidized housing, but affordable work-force housing opportunities. He states that he thinks there are some developers out there that would be interested in doing [these projects]. He states that [the Board] needs to make it financially feasible. He states that [the Board] discovered with York Street that it was “virtually impossible” to do anything with density when looking at the minimum lot was, based on sewer or non-sewer. He states that this prevails through all of [the Town’s] zoning, where they allow multi-family or higher density minimum lot size was what was really constrained. He notes that this is important to look at. He wonders what “increased wetland protection” and specifically “Punky Swamp” [is referring to].

R. Smith states that it “came from” him. He states that he felt the sense that Punky Swamp was so pervasive in that area. He notes that what [the Board] has “seen so far” is little areas of infill and that he thought that taking an overall look at the area, while people keep whittling away at smaller sections [of the swamp]. He notes that there is a whole infrastructure of wetlands and [they are] interconnected.

R. Metcalf states that [it would be] looking at the lots of record, developed in relationship with the wetlands.

R. Smith states, “correct.” He notes that it is becoming “quite evident” that wetlands and what [the Town] has left is becoming increasingly more important to try and save.

E. Trainer states that he is not sure how “this works.” He notes that the Comprehensive Plan is going to be discussing a lot of these issues that have “ordinance investigation aspects” to them. He states that he guesses it isn’t official until it is approved. He wonders if [the Board] doesn’t “touch that” until the [Comprehensive] Plan is approved.

R. Metcalf states that [the Board] can’t [use the Comprehensive Plan] unless it is approved. He notes that they can’t do “anything” in terms of “guiding zoning.”

E. Trainer states that the Comprehensive Plan would cover “that” in a “general sense.” He states that there is an opportunity for “background work” if it is covered by the current Comprehensive Plan.

R. Metcalf states that they would have to “explore that” before making “those changes.”

J. Vance states that she thinks that part of the Comprehensive Plan that comes late in the process is the future land-use plan which is looking at the overlay of the resources, infrastructure, vulnerable

areas, and the wetlands to identify where the growth area will be. She notes that maybe [the Board] needs to “tweak” a little bit “here and there.” She notes that, at that point, [the Board] would have a “really good idea” of what to do as far as density changes in the zoning.

C. MacClinchy wonders if she is saying that she is waiting to see the future land-use map.

J. Vance states that she learned by going through the 2005 State Planning Office [that they] did an “A-Z, how to do a comprehensive plan.” She notes that they had a sector map with overlay of different parts of town, [with] the wetlands that are already protected. She notes that [the map had] where sewer was. She notes that all those can be laid over and can [generate] an idea of what is left over. She notes that these areas “you can look what to do with.” She notes that “they” want concentration [of] growth in the Village area and to keep growth away from rural areas. She notes that when areas are laid on top of each other, you can look at the whole picture. She notes that after the sector map is finished, you can have a future land-use map.

R. Metcalf states that this is how the current land-use map was developed. He states that the only thing [the Board] would be looking at updating in terms of municipal infrastructure in terms of utilities. He states that, other than that, all the restrictive areas as far as growth is concerned were all defined by the current land-use. He states that when [the Town] started looking at expanding the [developable] areas in West Kennebunk by the growth area “out there.” He states that what this Board went through during part of that “exercise” when expanding that growth area and identified it, it was a step [the Board] took to expand the growth area and not to expand it any further “beyond that.” He states that [the growth area] was concentrated where “services” were and where infrastructure was. He states that when [the Board] made amendments to the zoning, [the Board] introduced subsurface waste disposal because they knew that public sewer was not very likely to “go out there” and be expanded beyond the schools. He states that the exercise [J. Vance] saw in the State’s planning has been done. He states that all [the Town] is going to do is take any updates on the utility information and supplement that onto the plan. He notes that [the Town] will see if there are any more growth areas in West Kennebunk. He notes that in looking at growth areas, [the Town must consider] how they can expand and infill those. He notes that [the Town] has that directive under the current plan, [but that] maybe [the Board] could identify some additional areas where there is sewer with an “X,” “these sites are suitable.” He states that it could be looking at a piece of property in the SR and saying really it should be in Village Residential. He notes that these are the type of things [the Board] could look at and propose zoning changes as well to modify the zone.

J. Vance states that she thinks it would be “pretty surgical.”

C. MacClinchy wonders if there will be a future land-use map with [the most recent] Comprehensive Plan. R. Metcalf states that it will be an update, where areas are defined based on research and updated information.

J. Vance states that “it is” further refining what [the Town] had but is using a formula of looking at things. She notes that if you “start at ground zero,” this instruction will be perfect. She notes that it is good to know how to [do it] if [the Board] starts from scratch.

C. MacClinchy states that one other area [the Board] has to “deal with a lot” [that] they could address would be updating the dock standards only because they seem to be putting in the end of applications certain conditions: pull in and pull out dates; no lighting; paint, stain and waterproofing “stuff.” He notes that these are “things” that should be in the ordinance but they are not. He notes that [the Planning Board] should review the dock standards. R. Metcalf states this will “make it easier” for applicants.

R. Metcalf notes that the density [issue] was the biggest [issue].

R. Smith asks R. Metcalf when the Comprehensive Plan will be ready for the voters.

R. Metcalf states, “November.”

R. Metcalf states that [the Comprehensive Plan] has one more session with the [Board of] Selectmen. He notes that they have one more review session with the Selectmen and will finetune their comments. He states that then they will have a “draft version” and their last meeting is to get [the draft] uploaded for the Planning Board to [have a chance] to time [to review the document]. He notes that [the Comprehensive Plan] will review [the plan with the Planning Board]. He states that they will have to go through the public hearing process. He notes that they will have to “tweak” the language. He notes that it [will then again be] open to the public for conversation and discussion and [the Comprehensive Plan Committee] will have to come back to the Planning Board and the Board of Selectmen. He states that he has truly enjoyed working with “those people” [on the Comprehensive Plan Committee] for 3-years “plus,” [but that] he wants “the damn thing done.” He states that [the Comprehensive Plan Committee] will be “rekindling” the publicity in September to make people aware so come election time they don’t have a situation where everyone [wonders], “what are we talking about here.”

C. MacClinchy states that it seems like some of [the Board’s] policy meetings will be looking “at that” and spending some time “with that.”

R. Metcalf states that [the Board] will be “looking into May” before that happens. R. Smith states that “May is around the corner.”

J. Stoll states that this is a good start for him. He asks R. Smith to email him.

R. Metcalf states that he will get [J. Stoll] the zoning sections for Portland for the workforce [housing] that is “very good.” He states that Cape Elizabeth “has one” but he is not sure it would really “fit well” as affordable work-force housing with some density bonuses they have.

4. Approval of Minutes of Previous Meeting

C. MacClinchy begins to review the minutes from the previous meeting.

R. Smith moves to approve the minutes from March 25th, 2019, as correct.

J. Vance seconds the motion.

All in favor, none opposed. The motion passes 5/0.

5. Other Business

C. MacClinchy wonders what chapters [the Comprehensive Plan Committee] is going over with the Board of Selectmen [at their next meeting].

R. Metcalf states that [they are going over] land use. J. Vance adds [that they are also going over] public utilities.

6. Adjourn

R. Smith moves to adjourn.

J. Vance seconds the motion.

All are in favor, none opposed. The motion passes 5/0.

The meeting ended at approximately 7:52 PM.

Respectfully submitted by Megan Hall.