

**Town of Kennebunk
Planning Board
Meeting Minutes**

Monday, April 22nd, 2019

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

Absent: Robert Metcalf

Also Attending: John Stoll—Town Planner

1. Open Meeting

C. MacClinchy opened the meeting at approximately 7:00 PM. Today is Monday, April 22nd, 2019.

2. Agenda Items (1)

C. MacClinchy states that there is new business, an application to amend an approved subdivision” Longview Terrace, 17 Rosewood Drive.

J. Stoll states that this is an application to amend an approved subdivision of Longview Terrace, subdivision plan 118, tax map 39, lot 5. He states that the applicant has provided all of the required items. He states that the application proposes taking an existing lot and splitting it into 3 lots, 2 new lots and the existing one with the house, with an access driveway that crosses the “back.” He states that [the applicant] provided all the required items of article 14.2 for amendments to subdivisions. He states that the Board should review the material and provide the applicant with the review schedule. He states that staff does recommend that since the application proposes to [create] residential lots, that the Board use the preliminary plan approval at this time. He advises the Board to determine what additional items they might require and advise the applicant at this time. He stated that [the Town Engineer] would advise that the applicant discuss their plan with the public services director to coordinate utility connections, and the driveway connection with the future paving schedule and had asked for a planned profile for the proposed access road and driveway on the site. He notes that [the Town Engineer] was comfortable with the existing drainage easement, as this had been previously approved through amendments last year.

Andy Morrell introduces himself from BH2M Engineers, representing Jason Labonte. He states that they were [at the Planning Board meeting] 6-months ago [concerning] lots 116 and 117. He notes that the applicant is looking to do something “similar.” He states that the existing house will remain with [lot] 118 and will have acres off of Rosewood [Circle]. He states that the driveway

easement serves the 2-lots in the back, lots 118A and 118B. He states that he is happy to answer any questions.

J. Vance states that [there is an] access driveway that crosses a 50-foot drainage easement. She notes that she remembers that when [the Planning Board] looked at the “other lots” [from the previous amended subdivision lots 116 and 117] that it was “similar” to “this situation.” She states that she doesn’t recall the driveway going across the “actual easement”

A. Morrell states that the previous two lots that were “cut out” were “frontage lots” off of Glenwood Drive. He notes that each lot was within the existing drainage easement. He states that they reduced the drainage easement in those locations to 30-feet. He states that they have done “something similar here.” He states that “those driveways and those lots” are in the drainage easement [and] the proposed driveway is across what is remaining.

J. Vance wonders who retains ownership of the lot. A. Morrell notes that [the owner is of] lot 118 with the existing house.

D. Smith states that 116A and [116]B, and 117A and [117]B are off Glenwood Drive. He wonders if there is “any reason” that access couldn’t be extended to lot 118A and [118]B.

A. Morrell notes that he “supposes” the applicant could reach out to the owner of the lot “to the West” and see if that is an option.

D. Smith states that it would make sense to continue that access if possible. He notes that if [someone] is coming in from Rosewood and going across, it has to be paved or left as gravel to go across the drainage easement. He states that there might be alternatives to go on the “Northerly side.”

A. Morrell states that the driveway would go across the same drainage easement.

C. MacClinchy states that [the applicant] is building on “that carved-out lot” currently. He doesn’t think there will be room for a road to go “that lot” from the back. He states that [lot 117A and 117B] is already being built on so there is no room to run a driveway to get to these lots. He states that you would have to go through the easement

D. Smith states that he thought that there was an access road to “get in” either side.

C. MacClinchy states that there is “just the driveway.”

D. Smith states that it is a shared driveway between the two lots, 116A and [116]B and another separate shared driveway, 117A and 117B. He wonders if this is right.

A. Morrell states, “no.” He notes that there were 2 existing houses on 2 existing lots. He states that they cut out one new lot out of each of those lots. He states that each of those lots had one driveway off of Glenwood Drive.

D. Smith states, "I see."

A. Morrell states that "this" was Glenwood [pointing to the map] and "this" was the original lot that they cut out. He notes that they put the driveway "here."

D. Smith wonders if it was or was not the case that there was an A and B for [lot] 117. C. MacClinchy notes that A and B was the original house and the new lot. D. Smith wonders if [the applicant] created two lots. A. Morrell states that they could have cut another lot "off here."

D. Smith states that this "answers the question" that the only way to service [this lot] is off of Rosewood [Circle]. He wonders if a soil science [test was done] because [the applicant] is taking a 0-deduction for poorly drained soil.

A. Morrell states that they used the medium intensity soil information provided by the state.

D. Smith states that, historically, Rosewood Circle has been a "big problem" for proper draining. He states that, where pavement cuts will be "right in that area," he doesn't know if it will take extra underlayment or a more expensive or extensive pavement preparation or grubbing or ground work. He states that he would suggest [the applicant] look at this. He wonders if the 14699 that [the applicant] had taken for the easement strictly described the rectangle they have as the drainage easement only.

A. Morrell wonders if D. Smith is referring to the net density on note 14. He notes that what is listed as an easement is the culmination of the 30-foot driveway and what remains for the drainage easement of the lot.

D. Smith states that he wants to know that it includes the drainage easement, the developed and undeveloped drainage easement. He [also wants to know] that it doesn't "speak to" any of the change of use coming up to gain access to the 2 lots that are being created. He states that he thinks it would be part of tax map 39.5 and "you wouldn't have to" deduct for that, [as it] is an existing lot. He states that "the only thing" he would like to "bring up" is 118B's square footage is 10,036-square feet. He notes that he would request that since [the applicant] only has 37-square feet "to play with" and still be conforming, he would suggest that [the applicant] make sure they "really check" the pinning of the lot so [the applicant] doesn't have to "go back" to give some [square footage] to make it conforming.

A. Morrell states that they can "tweak" that common line between the two [lots] if that is something the Board is not comfortable with.

D. Smith states that he doesn't want to see a consent decree. He states that if [the applicant] wants to make absolutely sure that there is a net 10,000-square foot minimum in lot B, that would be good.

R. Smith wonders if the drainage easement that is being crossed is the entire 50-feet of the easement. A. Morrell states that with the driveway, yes.

R. Smith states that when [the Planning Board] did the other [original application] it was required that [the applicant] leave 30-feet [of the] drainage easement. He wonders where that is.

A. Morrell states that they are leaving 50-feet. He notes that this is what is remaining. R. Smith states that the driveway [goes over [the easement]]. A. Morrell states that this is “correct.”

R. Smith wonders if they are leaving the ability for water to go under the road.

A. Morrell states that no one knows [why the drainage easement is there].

R. Smith states that what the [Town] Attorney said was that [the applicant] didn't need 50-feet [of the easement to remain], but that she didn't say there shouldn't be any drainage easement there at all.

C. MacClinchy states that [the drainage easement] was 150-feet but [the Town Attorney] said that was excessive.

R. Smith states that [the Town Attorney] didn't say to eliminate the easement and if it is filled in and [covered] by a driveway it is eliminated.

A. Morrell states that Public Works asked for planning for the driveway.

R. Smith states that an engineer needs to [decide]. He states that [the idea] wasn't to eliminate the “whole thing” but to “narrow it down.” He notes that he hasn't seen any design of the road but [the Planning Board] should have a design [for the road].

E. Trainer wonders how [the applicant] would build a driveway over an easement. He states that the “shed” that is “sitting there,” he [assumes] that they plan on moving it.

Jason Labonte introduces himself as someone who is looking to develop [the lots in question]. He states that for the shed, they are looking to create an easement to the back lot. He states that it is not a road but is a shared driveway. He states that there is no setback from an easement, and the shed is not in the easement, [as] it is 5-6 feet from [the easement]. He states that his “guess” in dealing with the [Town of Kennebunk] Fire Department [previously], that [the driveway] will be a 16-foot wide gravel driveway with a turn around on the end. He states that this is what will be designed inside a 30-foot easement. He states that if they have to “sway” [the road] to one side to get away from the shed [they will do so]. He states to answer [R. Smith's] question about the drainage easement, it will be an easement. He notes that they can “keep the language in there.” He states that there is no water and the lowest point is Rosewood. He notes that “all the water” goes

down towards Rosewood and [the lot in question] is all high-land. He states that if [the Board members] remember on the site walk, the drainage easement was from 50-years ago and no one has any idea why [it is there]. He states that as far as the easement itself, they are leaving 50-feet. He notes that the [Town Attorney] wanted 30[-feet]. He states that they can put language in place that they can do drainage across [the driveway] in the future. He states that the drainage easement stops off on the West side of the property. He states that the drainage easement does not continue to the abutting side of the property. He notes that the “only thing” is the cross-hatching to the right of the driveway, [as] that is where the drainage stops. He states that it would only be a 20-30 [foot] strip of land. He states that if anything happens in the future, they would cross the driveway and [the language could be added to do this].

E. Trainer states that if there is a drainage easement, until the language is changed, [the applicant] would have to conform to the rules about the drainage easement.

J. Labonte states that there could always be something put under the road. He notes that if there needed to be drainage or culverts, there will be some “language” [added to the plan]. He states its been 50-60 years and “they” haven’t done anything yet. He states that between the engineers and the soil scientists, they are all “scratching their heads” [because] they don’t understand why there is a drainage easement. He states that they can leave the “language open” so if anyone needed to do anything in the future, they can. He states that it is basically a “glorified driveway” and is not a public road. He notes that it is just serving 2-lots.

C. MacClinchy states that he thinks one of the issues is that they will need to see the details about the driveway. He notes that because of the length [of the driveway, the applicant] will have to show that there will be a turn-around to satisfy the Fire Chief. He states that [the Board] wants more detail. He states that his other concern would be how the existing driveway was split off from the shared driveway. He states that [it needs to be] made sure that there is a clear designation and something that will function for everybody that is [connected to the driveway]. He states that [the Planning Board] has seen other applications where they’ve split lots and shared driveways and [the driveways] are at “weird angles” and it is a safety hazard. He wonders if J. Stoll agrees that there is no setback from an easement.

J. Stoll states that this is accurate but he [may be] “mixing up towns.” He states he will have Paul Demers [the Town Code Enforcement Officer] double check and he will put it in as a precaution.

C. MacClinchy states that it is reasonable that [the applicant] show a setback line from the easement. He states that [the Board] needs clarification.

D. Smith asks that once [the applicant] construct what they feel [will be] the driveway configuration to serve both lots, [that they] show that to Jeff Rowe [the Town of Kennebunk Fire Chief] and bring [the plan] back to [the Planning Board].

J. Labonte wonders if [the Board] wants a letter [from the Fire Chief]. D. Smith states that he “thinks so” because it is two houses [that the driveway is serving].

J. Labonte states that safety is the “number one” on any project they do.

D. Smith states that he thinks it will be “good” [in case] there are automobiles parked, as long as there is access for Fire-Rescue or a fire engine.

R. Smith states that there are 3-lots that are sharing the driveway, [lot] 118 for a “short distance” then two lots “out back.” He wonders if there is a plan for maintenance of the driveway.

J. Labonte states that [there is a] road maintenance agreement, [with] a small expense for [lot] 118 and the other two [lots] will be sharing the [other expenses].

R. Smith states that [the Board will need to see] a clear [plan] of how [the driveway] is “coming off Rosewood” [Circle].

J. Labonte states that “right now” [the plan is for it to] “Y” off to 118. He wonders if [the Board] sees that as being an issue.

R. Smith states that [the Board] needs to “look at that.”

C. MacClinchy states that he is not sure that “in reality” it is a driveway, but [rather] is a road. He states that they will have to get private road and a name. He states that if there are safety concerns, [the applicant] needs to make sure the owner of the “front lot” can see cars coming out from the “other way.” He states that the Fire Department or Code Officer [would help with this as] he doesn’t know the “exact standards.” He notes that the “ideal” would be a 90-degree [visibility], but if that doesn’t “make sense” there [still] needs to be clear visibility.

R. Smith wonders how [the applicant] plans on handling snow so that everyone can have access [including both] the owner’s [of the lots] and Fire and Rescue. J. Labonte states that they will “put in language” [concerning the handling of snow].

D. Smith wonders about snow storage. R. Smith states that [it can be stored] or taken away.

C. MacClinchy states that [the Board] wants to do a site walk. He notes that they would need to see the center line of the easement and the lot corners of the proposed new lots and that is all that they would need.

R. Smith adds [that the Board] needs to see how [the applicant] will manage the safety vehicles turn-around. C. MacClinchy states that he doesn’t think they need to visually see that but they could see potential areas [this could take place].

R. Smith wonders if [the applicant] will have the design [for the turn-around]. J. Labonte states that he is “sure” his engineers can do it.

C. MacClinchy notes that [the Board] can go out and see the center line of the road, [even if] it won't be mapped out specifically. R. Smith states that it would be nice to have J. Rowe's [the Fire Chief's] input.

J. Labonte states that once [the Board] walks the land they will get a good idea of how it will be laid out. He notes the trees are all hardwood. He states that [the Board] will see contours in the land and will see some a pretty good "ability" to "maneuver stuff around."

C. MacClinchy states that he doesn't think there are a lot of geographical issues with the lot. He schedules [the site walk] for 8 AM on Saturday [the 27th of April, 2019]. He asks that J. Stoll send [the Board] a [reminder] email and to send R. Metcalf a note.

D. Smith states that he doesn't see any contours on the drawing but that he knows the site [the applicant] wants to build on is flat. He states that he didn't know what [the applicant] had for his elevations. He wonders if [the elevations] drop before getting "all the way" to Rosewood [Circle].

J. Labonte states that the lots are 4-5 feet higher than Rosewood [Circle]. He notes that it is slightly pitched and is gradual. D. Smith states that he is "happy with that." J. Labonte states that he is familiar with [the elevations] because they've built other houses. D. Smith states that if they are "looking at 4-feet" then he won't "worry about it."

3. Agenda Items (II)

C. MacClinchy introduces an application to amend an approved subdivision [for] the revocable trust agreement of William Birely Clement Jr. of Fletcher Street and Oakwood Lane.

J. Stoll states that this [application] amounts to a lot line adjustment. He notes that [the applicant] is "abandoning" a portion of the lot line between 4 and 6 Oakwood [Lane] and then establishing a new lot line to separate the two lots on the northwesterly boundary of 4 Oakwood Lane. He states that he provided [the Board] with a copy of the applicant's narrative and the staff report because he did ask for a narrative and an electronic copy and [the applicant] provided those. He states that the only other thing he had was questions, [as he is] unfamiliar with the property. He notes that [these questions] can be addressed on a subsequent submission. He notes that the plan lists waiver requests. [The applicant speaks up and notes that the waivers were already granted]. J. Stoll asks [the applicant] to make a note of that and to say the waivers were granted [in the plan]. He states that there is a lot of "proposed driveway language," he wonders if the driveways have been constructed at this point. [The applicant speaks up and notes that only one of the driveways has been constructed]. J. Stoll asks for that to be updated [on the plan].

Dave Gosselin introduces himself from Quarter Post Land Surveying. He states that he is "here" to present an amended subdivision for the revocable trust of William C. Birely Jr. He states that J. Stoll did a good job. He notes that it is simply changing a lot line. He notes that there is nothing else associated with it. He stats that it meets all zoning standards.

C. MacClinchy wonders if there is a “reason behind it.”

D. Gosselin states that the “only reason” was for the preservation of the trees in the back.

C. MacClinchy wonders if there is consideration of splitting the lot again. D. Gosselin states, “no.”

J. Vance wonders, [with] this “chunk” of property that is bordered by other properties, where “does it go to.”

D. Gosselin states that the original line came up from Oakwood Lane and came up to the back. He states that they are proposing to truncate it “at this point,” which is 15 ½ feet off the constructed building and “run in a westerly direction” onto the existing property line.

J. Vance wonders if there will be a land-locked piece of property. D. Gosselin states, “no,” [the applicant] is just changing lot lines in between the 2-existing lot.

J. Vance states that all they are doing is changing the “bottom” [lot line] and not the one that is “perpendicular.” D. Gosselin states that this is correct.

D. Smith wonders if there is only one proposed driveway [for] lot 1. D. Gosselin states, “yes,” and that lot 2 has not been built. He states that all three properties still remain in [W. Birely’s] ownership. He states that [W. Birley] hasn’t built “everything out there quite yet.”

D. Smith wonders if the proposed setback [for lot 2] has been achieved from where the building is expected to be built. D. Gosselin states that they “went out” and physically located the building so that there was a setback with no driveway.

C. MacClinchy states that there is construction access but [the applicant] hasn’t finished the driveway.

D. Smith wonders if [the driveway] complies with the setback [requirement]s. D. Gosselin states that it does.

D. Smith wonders if [the applicant] were to develop lot 3, [what would it be]. D. Gosselin states that it would be a single-family residence. D. Smith wonders if [D. Gosselin is referring to] the entire 59,000-square feet. D. Gosselin states, “yes.”

D. Smith states that if “those plans change at all” [D. Gosselin] has to “make sure” the client understands the access to serve multiple lots may be greater than what a driveway cut would be. He states that technically [the applicant] could build 2 or more houses behind [the lots in question] with Town water and sewer.

D. Gosselin states that this is not the desire at this point, as the desire was to “conserve the trees.”

D. Smith states that he request that [D. Gosselin] share that comment with the client so he doesn’t “create his own hardship.” He states that this is the “one thing” the Board wants to make sure [in

terms of] being proactive, about not having the applicant be denied the use that he wants by creating a hardship.

R. Smith states that this [plan] is clear and “easy to understand” and he has no questions.

C. MacClinchy wonders if the utility easement in the back will stay on lots 1 and 2 and accesses lot 3 but is not included. D. Gosselin states, “correct,” and that the “only thing” that is changing is the lot line.

C. MacClinchy states that he doesn’t have any questions as well and that [the application] doesn’t require a site walk. He notes that the next step is a minor provision.

J. Stoll reminds [that there needs to be a] public hearing.

C. MacClinchy states that if [the Town] has all the information needed, [the Planning Board] can schedule [a public hearing] for their next project meeting.

J. Stoll states that this is probably something [the Board] wants to decide because [the next project meeting falls on] Memorial Day.

C. MacClinchy asks the Board what they think of meeting on May 27th, Memorial Day. He states that he doesn’t think [the Board] usually meets.

D. Smith states that the Town Hall won’t be open [on Memorial Day] and [the Board] won’t be able to get access [to the meeting space]. He suggests [having a meeting] the Tuesday after [Memorial Day].

C. MacClinchy states that [the Board] utilized that option in the past [but] that there likely is a [Board of] Selectmen meeting and there would be no recording [of the Planning Board meeting in that case]. He states that he thinks it would be fine not to have [the meeting] “that night” and make it earlier, like May 20th or doing it Tuesday May 28th.

R. Smith wonders if people are “clamoring to get on” [the agenda]. J. Stoll states that he has one application waiting.

C. MacClinchy wonders if [J. Stoll] will have “stuff for us” on [May] 13th. J. Stoll states that if [the Board] wants to schedule public hearing that night it would be fine. He states that R. Metcalf wanted to bring some “Comp Plan stuff” but [the Board] may be able to do both.

C. MacClinchy states that [May 13th] will be the only meeting of the month. He schedules the public hearing [for this application] for May 13th, [2019].

4. Agenda Items (III)

C. MacClinchy introduces an application to amend an approved subdivision, formally known as Webhannet Place Village. He states that he was confused about what was proposed.

Brian Nielson introduces himself from Attar Engineering, representing Cottage Advisors. He states that what was approved as you enter the subdivision, [that] all buildings and locations remain the same. He notes that they have four units that they are changing to two-bay car garages. He states that they have “mildly” adjusted “this pond” with the grading and buffer areas and the same with “this pond.” He notes that there is less than 200-square feet of changes and they have “plenty left over.”

C. MacClinchy states that [the applicant] “added a park.” B. Nielson states, “yes,” a “pocket park.” D. Smith notes it is on the East corner. R. Smith wonders what kind of park.

Howard Chip Hall introduces himself [as a representative] with Cottage Advisors. He notes that the pocket park was already approved when they came in for the modification to add a pocket park.

J. Stoll states that [the pocket park] was in the narrative as being new.

H. Hall states that they had a “full landscape plan” that as presented [with] a patioed area for owners and guests to use. He notes that [this area] has outdoor seating [and a] fire pit that is enclosed in. He notes that there is outdoor furniture. He states that [the lot’s] lawns aren’t big so they wanted an “environment” [for the members of the community].

R. Smith wonders if it will have lights. H. Hall states, “no.”

J. Vance wonders how close the woods is to the fire pit. H. Hall states that the fire pit is in the center of the patio area and the woodland area has been cleared.

J. Vance states that there is “woods behind.” She wonders how far [H. Hall] would estimate [the woods are from the fire pit]. H. Hall states that it is 20-25 feet. J. Vance wonders if this is safe. She wonders how far a fire pit [should be] from trees. She states that there was a wildfire in Kennebunk and she thinks she is “more aware” of [the issue]. She notes that the wind does go in a westerly direction and the woods are easterly.

J. Stoll wonders if Kennebunk requires fire permits.

J. Vance asks [J. Stoll] to “run it past” J. Rowe and see if there is an issue. D. Smith states that for a fire pit that is defined there doesn’t need to be a fire permit for it. C. MacClinchy states that he thinks [a defined fire pit] does get reviewed by the Fire Department to say there is a safe distance from “things.” He notes that it is needed for a single placement [of a fire pit].

J. Vance wonders why [the applicant] is changing from one garage to 2 garages. B. Nielson states [it is because of] consumer comments. J. Vance wonders if it will change the retail price. B. Nielson states that he would imagine so and that H. Hall states, “yes.”

J. Vance states that [the] distance [between] units may have changed as a result [of the double garages being added]. B. Nielson states that “typically” [all the buildings] had a minimum of 12-

feet. He states that the way they've drawn the limit of the building structure, [there is] a 15-foot clearance and the way they've drawn the building envelopes they have a 10-foot clearance. He states that the intention is to have a minimum of 12-foot of separation between the buildings.

R. Smith wonders if [the applicant] will conform to the note on the plan. B. Nielson states, "correct."

D. Smith wonders if even in putting in a second garage [the applicant] will achieve the 12-foot minimum. B. Nielson states, "correct."

D. Smith wonders what else [will happen] to the foot print if the consumer demand is such that other unbuilt structure end up needing to consider 2-car garages instead of just doing what [was originally] proposed.

H. Hall states that to conform to the current zoning in building separation is why they have four structures that are too close to put [an additional garage] bay on. He states that they took a look at it and have the demand and market and believe that they could accommodate the current zoning and setbacks and provide a product to meet that demand. He states that not everyone needs a 2-bay [garage], but from a [marketing] standpoint they thought it would be a good addition to the project.

D. Smith wonders if they are building the north side of the development first. H. Hall states that all the structures are built except for "this and this" ([pointing to the plan]). He notes that "this whole side" is complete, that "this building" has been built and that they are building "this" next ([all pointing to the plan]).

D. Smith wonders if H. Hall feels that [lot] 3, 4, 5, and 5 will have enough room to meet the 12-foot separation and get a 2-car garage. H. Hall states that it can be seen in the updated plan that has 2-bays. He states that "in the middle here" they took the building envelop and was given to Attar Engineering to lay it out. He notes that they can make sure [there is a 12-foot separation because] they don't want to keep coming back [to the Planning Board].

D. Smith states that since [lot] 15, 16, 13, and 14 are on the southeast corner, he wonders if they are going to achieve the proper separation. H. Hall states that [the separation] is 15-feet.

D. Smith states that this is already defined. He states that he is noticing that [lots] 15 and 16 are in a 50-foot setback. H. Hall states that [they are] not in a 25[-foot setback]. D. Smith wonders if there is anyway [this can be] "tweaked." H. Hall asks D. Smith to look on page 2 of the plan. He notes that there is an outer area which is the building envelope for [lots] 15 and 16. He states that the corner that is encroaching [is a porch]. He states that it is edge of the building outline [of the] envelope and doesn't got into the setback. He states that the decks off the back [of the houses] they do not do unless [there are] walk-out basement. He states that there are no structures "out there" either.

R. Smith and E. Trainer have no questions.

C. MacClinchy asks J. Stoll if he could review the “pocket park” just to see [if it is acceptable]. J. Stoll states that he will follow-up.

C. MacClinchy states that [the pocket park] is a de minimis change [but that the Board should follow-up]. He wonders what process they are using. He states that this is a minor subdivision amendment. J. Stoll states that this is what he would recommend.

C. MacClinchy states that outstanding any objection, [the Board] will forego a site walk [as] he doesn't think it will be necessary. He asks to schedule a public hearing as long as [J. Stoll] gets the answers to his questions [from the applicant]. He wonders if there are a couple notes J. Stoll asked for. J. Stoll states that “everything has been answered.”

C. MacClinchy states that they can schedule the public hearing for May 13th, [2019] as well.

D. Smith asks J. Stoll if there is an advisement to Maine DEP and the Army Corp [of Engineers] for modifications to the storm water plan. J. Stoll states that, “not that I am aware of.” He notes that the Town Engineer does have this [application] and will have comments before [the public] hearing.

D. Smith states that [the applicant] is resubmitting a minor amendment to Maine DEP and he thinks it gets to be “sloppy” if [the Board] doesn't make sure they are “set” with the “approving bodies” in terms of modifications to the storm water [plan].

B. Nielson states that he can do this.

5. Agenda Items (IV)

Alex Mendelsohn introduces himself as a resident of Kennebunk. He states that he has questions because he hasn't been “keeping up” with the [meeting] minutes. He states that the reason he attended the meeting this evening was to ask about the rest stop proposal. He states that he met with the Conservation Commission and with Bill Ward and Chris Cluff “the other evening” to discuss the rest stop. He notes that there is a proposal to develop the rest stop. He notes that his concern and “other folk's” [concern] is that there is a significant vernal pool on the site. He wonders if [the Planning Board] has already reviewed this. He notes that there is a contract for the purchase of the site, [and wonders if] there are [any] approved wetland permits given.

R. Smith states that it might go before site review. C. MacClinchy states that a wetland permit goes through [the Planning Board so] they would see it if there was a vernal pool.

A. Mendelsohn states that he spent about 20-years on the Conservation Commission. He notes that back in 2016, the Town contracted with Longview Partners LLC to look at the site. He states that he has the letter from James Logan [who is] a site evaluator and wetland delineator and he pointed out in his letter to Matt Eddy, who was the Economic Development Consultant, on May

2nd, 2016 that he had reviewed the vernal pool. J. Logan's [letter states that], "since the two pools are rated as *significant*, MDEP standards require a 250-foot wide critical...habitat in which NRPA limits clearing to 25% of the undisturbed over story canopy." J. Logan then goes on to say that, "any proposed project for the site that includes wetland filling or tree removal must comply." A. Mendelsohn states that he is concerned about the vernal pools. He notes that he has an EPA poster [that he brought with him to the meeting]. He notes that himself and others are concerned about the vernal pool conservation. He states that John White used special topographic maps to locate vernal pools except on some private properties. He notes that this [site's vernal] pool is interesting because it is a dual pool—it is not just one, it is two—and they are significant pools. He states that the egg masses of the protected species are counted. He states that it is registered with IFMW and DEP and has Army Corp purview. He notes that it is pool number 539. He states that he spoke with Chris Osterrider [the Town Engineer] who sent him a PDF file which had to do with the property. He states that there is a map that shows the setback from the vernal pools. He notes that interestingly one of the Army Corp of Engineer's comments is that there is a 500-foot setback. He states that in discussing this with Dr. Aram Calhoun who works with the Audubon [Society] and in an article that was published by Dr. Calhoun at UMaine Orono and the University of New Hampshire that said, "these pool-breeding amphibians need intact forested habitat as far as 1,000-feet from the breeding pool to support a significant portion of the adult population and much longer distances to juvenile dispersal." A. Mendelsohn states that about this time of year wood frogs lay their eggs. He states that they are not "peepers." He notes that spotted salamanders lay their eggs. He notes that "critters" hatch and got to uplands [and therefore] need habitat around vernal pools. He states that [these organisms] serve as "food stuff" for migratory birds. He states that he spoke with C. Osterrider and his comments he will keep off the record. He notes that, however, some people did contact DEP. He notes that he has a letter dated March 11th, 2019 that says, "after conducting a field survey it has been determined that the vernal pool identified on your property is SIGNIFICANT. The 250-foot setback is mandatory and 1000-[foot] is recommended." He notes that if you look at the map, he doesn't see how you could build [on this site]. He states that he imagines this will come before the Board [eventually]. He notes that [C. Osterrider] was queried by Susan Bloomfield and she CC'd Mark Pardue and [possibly] J. Stoll's office as well as Paul Demers [the Town Code Enforcement Officer]. He notes that the response from [C. Osterrider] was that currently there were no new permits that had been filed. He states that he understands [the property] is under contract.

C. MacClinchy states that if a project is proposed then he is sure it would come [to the Planning Board] if there is a vernal pool. He notes that they have not seen [an application concerning this issue]. He states that if someone might buy the land and work on development, it is a known and significant vernal pool.

A. Mendelsohn states that he is concerned because the 1,000-foot setback would not allow construction and the 250-feet would [allow construction] but it "probably mess up" the habitat. He states that he met with John White and he spent "a lot of time" documenting [the vernal] pools

and A. Mendelsohn wonders if [the Town] would consider preserving the whole site and putting up something similar to those [signs] for historical sites of significance, and to maintain the sites so that people could pull off the site and be advised not to walk around. He suggests naming it after J. White and his work in the community. He notes that he did get S. Bloomfield's note to [C. Osterrider] and he did say that there were no new permits currently being filed. He notes that that [C. Osterrider] stated that, "I did receive a letter from Maine DEP about their current view of the property with respect to the vernal pools. You will note this is consistent with what was identified by Longview Partners as part of the survey that was conducted back in 2016 and this was also identified in the request for proposal. It is our position that the property is environmentally [constrained] and any entity seeking to develop the property will need to understand the...permits to accommodate the proposal." He states that he guesses he is [at the meeting] for a "heads up" because he knows this will "come up" and it seems that the site is not suitable for development. He knows that the proposal he heard with an "old-age home" with a road and parking lot. He notes that "sooner or later" [the Board] will probably see that.

C. MacClinchy states that [the Planning Board] takes their responsibilities in issue wetland permits and setbacks seriously. He states that they work hard to limit disturbances that happen to special sites and so when those projects—if this specific project ever comes before [the Planning Board]—get specific vetting. He notes that he is sure [the Board] would hear from "you and others." He notes that A. Mendelsohn's idea is "interesting" and he suggests he bring it to the [Board of] Selectmen. He states that he appreciates A. Mendelsohn taking the time and [coming to the Board].

A. Mendelsohn states that he just thinks that these breeding habitats are under "lots of pressure" in the northeast. He notes that there is a lot of habitat fragmentation. He states that this is an opportunity to "do something constructive." He states that he would not like to see any construction. He notes that he can leave [the Board] a copy of the map. C. MacClinchy states that [the Board] shouldn't accept that [because] they need to see a proposal to review anything. A. Mendelsohn states that C. Cluff has it as a PDF file. C. MacClinchy states that "Longview" is public documentation that the applicant would have and [the Board] could point to if "it ever comes to that."

A. Mendelsohn states that it is an interesting pool. He notes that what he is wondering is how the Army Corp [of Engineers] and IMNW review the status of [vernal] pools. He notes that the breeding season is 2-weeks long.

C. MacClinchy states that this has delayed projects in the past if it has been reviewed by the [Maine] DEP, the status of the [vernal] pool is already known.

A. Mendelsohn states that went to the [Economic Development Committee] and mentioned the [vernal] pools. He states that at that meeting the Town Manager said "okay let's go with the RFPs."

He notes that if you look at the map, it is not conceivable to build there. He notes that it is a great opportunity and he is trying to be creative in preserving the site and dedicate it to John White.

3. Approval of Minutes of Previous Meeting

C. MacClinchy begins the review of the meeting minutes for Monday, April 8th, 2019.

R. Smith moves to approve the minutes of the Town of Kennebunk Planning Board from April 8th, 2019, as corrected.

J. Vance seconds the motion.

All are in favor, none opposed. The motion passes 5/0. D. Smith abstains, as he was not present [at the April 8th, 2019 meeting].

4. Other Business

C. MacClinchy states that the meeting on the 27th of May will be cancelled, [as it is] Memorial Day. He notes that [the Planning Board] will have one meeting in May on the 13th. He notes that if there is “any policy stuff” that will be added [to the May 13th meeting].

5. Adjourn

D. Smith moves to adjourn.

R. Smith seconds the motion.

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

The meeting ended at approximately 8:25 PM

Respectfully submitted by Megan Hall.

Signature Page:

John C. Smith, chair 5/13/19
David C. Smith, Secretary 5/13/19
Janice Urra 5/13/19

Signature Date: