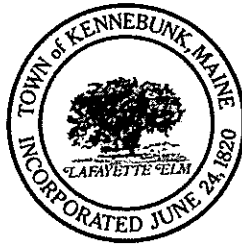


Town of Kennebunk, Maine



Planning Board

MEETING MINUTES

May 24, 2021

Zoom Teleconference Meeting, Kennebunk

Present: Chris MacClinchy [Chair], Richard Smith [Vice Chair], David Smith [Secretary], Janice Vance [Member], Edward Trainer [Alternate], Brittany Howard [Town Planner], and William Ward [Select Board liaison]

Absent: Robert Metcalf [Member],

Also Attending: William Walsh [Walsh Engineering], Sheila O'Donnell, Steve Blake [BH2M], and Michael Mezoian [Mezoian Development]

1. Call to Order: Chairman and presiding officer C. MacClinchy called the meeting to order at 7:03pm on May 24, 2021 via Zoom teleconferencing under the Governor's COVID-19 Executive Order and by request of the Town's Select Board. MacClinchy designated alternate E. Trainer as a voting member for the purpose of this meeting. MacClinchy likewise stated that the public would be able to pose questions and voice concerns or views when a public hearing is formally opened.

2. Agenda Items

(1) Public Hearing – Multi-Family – 79 York Street – Map 59 Lot 12

B. Howard offered a brief update: Applicant seeks to create nine residential units (4 duplexes and 1 single-family unit) on 0.95 acres (41,269 sq. ft.) with an affordable housing density bonus. The sketch review took place on December 14th, 2021. A virtual site walk took place on December 19, 2020, and the Completeness Hearing on April 12, 2021.

Howard noted that applicant has addressed, or is in the process of addressing, the following issues identified in past reviews: (1) narrative on the satisfaction of the affordable housing criteria; (2) dumpster location; (3) a photometric plan to be submitted prior to public hearing; (4) landscaping along the north property line; (5)

addition to the plan of site distance on York Street; and (6) need for septic information (i.e. whether there had been a septic tank on the property and whether it had been removed).

W. Walsh, representing applicant, offered a brief presentation for the public. He showed aerial and street-level depictions of the project, with color coding showing wetlands and buffers. Three of the nine units, Walsh said, will be designated for affordable housing, and the developer has covenants in place restricting these units to "affordable" use for 30 years. The residences will have Town sewer and utilities. Walsh also itemized the numerous changes made to the plan in response to previous Board feedback.

Walsh additionally noted that the property's existing maple trees will be retained, and that the development will add landscaping and a fence along the Route 1 side of the project. He briefly noted that three waivers were sought. While the project, he stated, now meets the Fire Department's ladder-placement criteria, it has yet to receive formal approval from the Department.

J. Vance, E. Trainer, and R. Smith expressed appreciation for the adjustments made to the plan. D. Smith questioned whether full "cut-off" lighting will be used, and Walsh responded in the affirmative. D. Smith also questioned whether there would be differences in the construction of the "affordable" units versus conventional ones, and Walsh stated that all the units will be the same.

C. MacClinchy formally opened a public hearing at 7:40pm, inviting the public to use the "raise-hand" feature to be recognized for comment or question. As there were none, he closed the public hearing at 7:41pm. He thanked the applicant for committing to remove any septic tank on the property if there still is one.

D. Smith inquired whether home owners or the developer would be responsible for the maintenance of the project's water drainage and containment systems. W. Walsh responded that all the units will be rented, so maintenance will be the responsibility of the owner/developer.

C. MacClinchy then led the Board in a review of this project's waiver requests.

Waiver #1: 50-Foot Perimeter Buffer Requirement [Article 10, Section C. 10.D.3]. After brief discussion, D. Smith moved [with friendly amendment] that the Town of Kennebunk Planning Board grant a waiver from Article 10, Sub-Section C.10.D.3 requiring a 50-foot perimeter buffer.

Motion: D. Smith

Amended and Seconded: R. Smith

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

Waiver #2: Front Set-Back Requirement [Article 10, Section 23.D.1.a]

D. Smith moved [with friendly amendment] that the Town of Kennebunk Planning Board grant a waiver for the set-back required by Article 10, Section 23.D.1.A to permit reduction from the 25-feet of set-back required to 19 feet to permit decks off the buildings.

Motion: D. Smith

Amended and Seconded: R. Smith

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

Waiver #3: Soil Mapping Requirement [Article 6, Section 3.C.7]

D. Smith moved [with friendly amendment] that the Town of Kennebunk Planning Board grant a waiver for the medium-intensity soil mapping survey required by Article 6, Section 3.C.7 as the project will be served by Town water and sewer.

Motion: D. Smith

Amended and Seconded: R. Smith

Vote: Roll call vote, 5 in favor, 0 opposed; the motion carried

The Board next considered the overall plan. D. Smith moved that the Town of Kennebunk Planning Board give preliminary plan approval to 79 York Street, Map 59 Lot 12.

Motion: D. Smith

Seconded: R. Smith

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

(2) Sketch - 15 Longwood Drive – 1-Lot Re-Subdivision - Map 39 Lot 45

D. Smith recused himself from this discussion for reasons of impartiality. He muted himself and turned off his video.

B. Howard advised the Board that this is a subdivision amendment. The Board, she said, had approved a prior one lot split from this lot in 2010. Applicant now proposes to amend it by splitting off a third lot. The new sketch application, Howard said, appears to be complete. Applicant has provided (a) a layout plan with existing conditions information, and (b) a utilities and utilities-extension plan for the site.

S. O'Donnell, owner and applicant, explained that there are currently two lots. Her intent is to split off a third, then sell all three as buildable lots in the spring.

J. Vance questioned where houses currently exist on the properties, and S. O'Donnell responded that there is currently one house on the existing two lots. The third lot would be created from existing property.

E. Trainer noted that this area has substantial wetlands. It is, he said, a matter of concern. Trainer observed that a site walk will be important to apprise the wetlands and water drainage situation of the parcel to be split off.

R. Smith and C. MacClinchy voiced similar concerns about the wetlands, water table, and drainage. Applicant O'Donnell responded that the proposed third lot has the least amount of wetlands of the three parcels.

Board members and applicant agreed to conduct a site walk on June 17th at 5:30pm. S. O'Donnell will have a person present who is knowledgeable of the parcel's wetlands.

(3) **Final Plan – Subdivision – Gregory's Place – Map 48 Lot 65**

D. Smith rejoined the meeting. B. Howard then summarized this next application. Applicant Mezoian Development, she said, seeks to create 6 residential lots on 2.46 acres (107,158 sq. feet) with wetlands at the rear of the property. The zoning is Village Residential, Resource Protection, and Shoreland Overlay. The Sketch Meeting took place on December 14, 2020; virtual site walk on January 11, 2021; Completeness Hearing on March 22, 2021; and Public Hearing on April 26, 2021.

The project's landscaping plan, Howard reported, has been updated in response to the Board's comments and concerns, and the stockade fence has been removed. Applicant has likewise contacted several groups about using recyclable materials from the existing house that is to be demolished.

Abutters, Howard said, had voiced concern about the possibility of hazardous pollution from asbestos and/or lead paint when demolition of the existing house takes place. Howard stated that the Town's Code Officer requires an Asbestos-Containing Materials [ACM] Report for a demolition permit. If there is asbestos or lead paint, she said, an abatement procedure will be required for demolition.

The Board, Howard concluded, should now determine whether to hold a public hearing or proceed to Findings of Fact.

S. Blake, representing Mezoian Development, showed an aerial diagram of the project and surrounding structures and vegetation. He highlighted the landscaping changes made to address the Board's past concerns and suggestions. Blake also assured the Board that asbestos containment would be done if required.

R. Smith, E. Turner, and C. MacClinchy thanked Blake and Mezoian for adopting the Board's suggestions and responding to abutter comments.

D. Smith voiced concern that lot #1 could become non-conforming. M. Mezoian assured the Board that the houses to be constructed will not be a "tight fit". D. Smith also questioned the project's north side landscaping and recommended canopy trees

and vegetation to give abutter on that side more privacy. C. MacClinchy reminded the Board that the abutter in question had specifically asked that their view remain unobstructed.

J. Vance asked if a HOA document had been drafted with a proviso specifying that only certified organic pesticides be used, and S. Blake responded in the affirmative.

J. Vance and C. MacClinchy also reiterated concerns about the steep slopes of lots #4 and #5. Those slopes need to be stabilized and protected, Vance and MacClinchy said. MacClinchy specifically advanced the condition that approval of this project should be contingent on a deed restriction that there be no construction or disturbance within the 100 foot shoreland setback.

C. MacClinchy then proceeded to the Findings of Fact

Town of Kennebunk Planning Board

FINDINGS OF FACT AND CONDITIONS OF APPROVAL

FINAL MAJOR SUBDIVISION PLAN OF: Gregory's Place Subdivision Name

1. Property Owner: Todd Lee & Scott Nutting
2. Site Location: 110 Fletcher Street
3. Size and # of lots/units: Creation of 6 residential lots: lot 1 – 10,152 sq. ft.; lot 2 – 11,239 sq. ft.; lot 3 – 11,027 sq. ft.; lot 4 – 21,840 sq. ft.; lot 5 – 17,015 sq. ft.; lot 6 – 16,509 sq. ft.
4. Zoning District (s): Village Residential (VR), Resource Protection (RP), & Shoreland Overlay Zone
5. Assessor's Map 48 Lot 65
6. Applicant: Mezoian Development has shown legal interest in the property by purchase and sale.
7. INFORMATION REVIEWED BY PLANNING BOARD:
 - Staff reviews (Fire Chief, Police Chief, Planner, Town Engineer): X
 - Sketch: 12/14/2020
 - Virtual Site Walk completed by Board: 1/11/2021
 - Completeness: 3/22/21
 - Public Hearing: 4/26/21
 - Conservation Commission: X
 - State/Federal Reviews: X

CONDITIONS/WAIVERS:

1. Restrictions are placed on the plan that prevents any development or activity within the 100 foot Shoreland setback.
- 2.
- 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 the Kennebunk, Kennebunkport, and Wells Water District saying they can adequately serve this subdivision.

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 note #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:
The erosion control plan and stormwater management plan were reviewed by the Town Engineer.

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:

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:
There is a letter from the Kennebunk Sewer District stating they can serve the needs of this subdivision.

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:

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
The applicant has provided a letter of financial capacity from a lending institution.

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:
Restrictions are placed on the plan that prevents any development or activity within the 100 foot Shoreland setback.

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:
The development activity is outside the 100-year flood elevation.

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
The stormwater management plan was reviewed and approved by the Town Engineer.

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 X , not met , N/A , 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
The project is not bordering a great
pond.

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 – this is for a 6-lot single family subdivision

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

 approve,
 X approve with the conditions noted on first page or above, or (5-0)
 deny

the Final Plan Application of

Gregory's Place
Subdivision Name

Two motions were made.

Motion: D. Smith moved that the Town of Kennebunk Planning Board approve the Findings of Fact and conditions of approval for 110 Fletcher Street, Gregory's Place, Map 48 Lot 65, on behalf of applicant Mezoian

Development, with the condition that there be no development, including structures or pathways, on the slopes of lots #4 and 5.

Second: R. Smith

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

Motion was then made by D. Smith that the Town of Kennebunk Planning Board approve the final subdivision plan for Gregory's Place, 110 Fletcher Street, Map 48 Lot 65, for a 6 residential-unit conventional subdivision as conditioned.

Motion: D. Smith

Second: R. Smith

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

3. Approval of Prior Minutes

C. MacClinchy led the Board in a page-by-page review of the May 10, 2021 minutes. Several errors were identified and corrections made. Motion was then made to approve the minutes of May 10, 2021 as corrected.

Motion: D. Smith

Second: R. Smith

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

4. Other Business

B. Howard noted that the Comprehensive Plan Workshop scheduled for May 25th conflicts with a Select Board Meeting. Given scheduling difficulties, however, Howard suggested that the Planning Board's 25th Workshop date and time not be changed. Howard will instead record the 25th session and have it posted on the Town's website so Select Board members and others can view it.

5. Adjournment: There being no further business, the Chairman adjourned the meeting at 9:21pm.

Motion: R. Smith moved to adjourn.

Second: E. Trainer

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

Respectfully Submitted,
J. Schlagheck

Adopted by the Planning Board in the meeting
of June 14, 2021

Signed by

 6/29/21

Planning Board