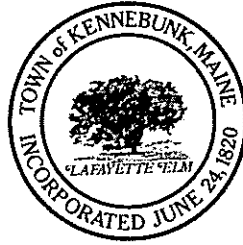


Town of Kennebunk, Maine



Planning Board

MEETING MINUTES

June 14, 2021

Zoom Teleconference Meeting, Kennebunk

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

Absent: None

Also Attending: William Walsh [Walsh Engineering], Steve Doe [Sebago Technics], Eric Dube and David Laham [Trillium Engineering], Steve Bake [BH2M], Chris Barstow [Barstow Builders] and Sarah Stanley [Kennebunk Land Trust]

1. **Call to Order:** Chairman and presiding officer C. MacClinchy called the meeting to order at 7:00pm on June 14, 2021 via Zoom teleconferencing under the Governor's COVID-19 Executive Order and by request of the Town's Select Board.

2. Agenda Items

(1) Special Exception – 60 Great Hill – Map 66 Lot 82

B. Howard offered a brief overview. The owner of 60 Great Hill Road, the 2018 Restatement of the Douglas Van Oort Living Trust, seeks special exception to relocate the driveway, add an addition, and remove part of the existing structure. In the process, applicant would reduce the lot coverage from 21.7% to 20.7%. The property is located in the Coastal Residential District, Resource Protection, and Shoreland Overlay Zones. The structure is a single-family dwelling.

Howard explained that the application is complete. The Board, she said, should schedule a site walk, if necessary, and set a public hearing date. However, Board members already had a "virtual" site walk of this property for a prior shoreline stabilization application.

W. Walsh, representing applicant, offered additional information. He showed photos highlighting the original two structures on this property which were conjoined into a single house in the 1970s. Steven Harris Architects, he said, now has plans for an addition to this structure to return it to a “Maine vernacular” look.

Walsh next showed color-coded diagrams of the specific dormers and other features of the house to be removed or added. Significant changes to the driveway, patio, and a 2-story addition are proposed. Overall, the applicant intends to reduce the impervious area coverage and move the structure away from the ocean and setback.

R. Smith, J. Vance, and D. Smith commended the design team for its plans. Vance had questions about landscaping, however W. Walsh responded that the landscaping plan has not as yet been finalized. Vance also encouraged applicant to reuse building materials if possible.

R. Metcalf inquired about the project’s drainage, and W. Walsh responded that drainage will primarily be accommodated by sheet cover over revetment. D. Smith voiced appreciation for the relocation of the driveway further east and asked whether the project might interfere with the ocean views of abutters. W. Walsh assured the Board that applicant has forged and will continue to maintain good rapport with neighbor as one outcome of the shoreline stabilization project.

D. Smith also questioned the height of the retaining wall along the driveway, and Walsh responded that it will be 3 to 4 feet tall (the height varying in certain locations depending on the “ups and downs” of the property). D. Smith urged applicant to give thought to landscaping and/or the wall’s height to minimize headlight glare in the windows of abutters. He [D. Smith] likewise urged applicant to meet with the Town Engineer Chris Osterrieder to address the shoreline of the public access area at the end of Great Hill Road.

D. Smith additionally questioned whether changes would take place to this home’s septic system, and Walsh responded that a new septic system would be installed using a concrete chambered system under the driveway.

C. MacClinchy asked Board members if they believed a site walk would be beneficial, and members responded in the negative as a virtual site walk had already taken place. B. Howard tentatively set July 12th as the date for a public hearing.

(2) Revised Sketch – Cedar Woods – Map 62 Lot 55

B. Howard provided an update: This is a redesign of a sketch plan previously reviewed by the Board on April 12, 2021. Applicant proposes to create 24 residential units in six structures – two 5-unit, two 4-unit, and two 3-unit buildings. The property is a vacant lot

located off Sycamore Lane with an area of 61,201,800 square feet. It is in the MRCU and Shoreland Overlay Zones.

Since the original sketch plan, Howard said, applicant has broken the project into 6 different buildings and submitted a landscaping plan.

The Board had previously inquired about the difference in the percentage of lot coverage between the proposed current design and original. The original application, Howard stated, envisioned 46,006 square feet of impervious area (32,349 pavement, 13,657 building), while the most recent submission has 48,868 sq. feet (30,653 pavement, 18,215 building). The result is a net increase of 2,862 sq. feet according to applicant's calculations.

B. Howard reminded Board Members that they had voiced five concerns or issues at their April 12, 2021 meeting: (1) snow storage; (2) usable space between units; (3) Fire Department concern about ladder access behind buildings; (4) the possibility of staggering buildings and/or adding greenery to mitigate the regimented "urban" look of the project; and (5) guest parking.

Steve Doe, representing the applicant, spoke to the Board today to address these concerns. He showed a diagram of the original concept and compared it with the current version. The applicant has revised the project, breaking the units into staggered-size groupings or clusters of "pods" and creating back yards for all units. A revised landscaping plan also adds ornamental and canopy trees to "soften" the look. There are more locations for snow storage on the plan as well.

R. Smith, J. Vance, D. Smith, R. Metcalf, E. Trainer, and C. MacClinchy each acknowledged that these changes were "in the right direction" and helpful, but voiced concern that the project is nevertheless still "crowded", "cramped", "over-developed", and "sterilely urban". All Board members concurred with R. Smith's observation that "this project is simply trying to squeeze too many pods into the space."

D. Smith and J. Vance likewise raised questions about snow storage and the potential for pollution from salt use in winter time. E. Trainer questioned the purpose of the proposed concrete box culverts. David Latham responded that the plan envisions adequate stormwater storage and explained the drainage benefit of the culverts.

Eric Dube further explained how the project's filter or treatment basins would work, cleansing drainage of pollutants before discharging the flow into a pond. Even a severe storm, he said, should not flush pollutants into wetlands. The project's snow-storage plans, he concluded, meet and exceed state and local requirements. Moreover, the DEP has to approve the drainage system as well.

D. Smith inquired whether the units will be privately-owned dwellings or rentals, and S. Doe responded that they are expected to be rentals. D. Smith urged consideration of

a sprinkler system for fire suppression, and E. Dube responded that all units will have sprinkler systems as well as fire walls.

D. Smith, E. Trainer, and C. MacClinchy noted that “Building E”, the pod with three residential units, is particularly crowded and poorly situated. D. Smith urged applicant to eliminate that or an adjacent unit for less crowding.

B. Howard noted that, as the Board decided not to do a site walk, applicant can come back with another sketch or move to preliminary plan application. The applicant’s spokespersons will reconnect with B. Howard to review next steps.

(3) Final Review – 433 Alfred Road – Highland Rose – Map 23 Lot 01

B. Howard summarized the status of this application, which is now before the Board for Final Plan review. Applicant seeks to create an Open Space Subdivision comprised of 9 residential lots on 71.66 acres. The land is currently vacant and located in the Rural Residential, Resource Protection, and Shoreland Overlay Zones.

Applicant, Howard stated, has obtained an MDEP permit. She reminded the Board that Sketch Meetings had taken place on October 12th and November 23rd of 2020. The Site Walk took place on October 31, 2020. A Completeness Hearing was held on February 22, 2021 and a Public Hearing took place on March 22, 2021.

B. Howard said that the Board could now opt to hold a public hearing on the Final Plan or proceed to Findings of Fact and plan review. She additionally noted that applicant now shows outparcel lot as the ninth lot in the Final Plan, which the Board may wish to discuss as it was split prior to the subdivision being submitted to the Board.

Steve Blake, representing the applicant, showed an aerial diagram of the project, indicating the changes made since the last submission, the location of a drainage pond, and the locations of stormwater buffers. The plan now has an expanded shoulder along Alfred Road near the school bus stop to give students more waiting room. The landscaping plan has also been amended to include trees in the cul-de-sac.

Explaining mention of ten lots in the plan, Blake explained that the DEP wants the impervious or “outparcel” area included in the project’s calculations.

R. Smith, R. Metcalf, E. Trainer and J. Vance commended applicant for the “good job” of improving the submission.

R. Smith inquired whether there has been feedback from the Conservation Commission, Fire Department, and Town Engineer. B. Howard responded that she has emails or letters from all three parties endorsing this submission as presented.

R. Smith, D. Smith and J. Vance raised questions about the 70-plus acres to be donated to the Kennebunk Land Trust, and Sarah Stanley of the KLT reported that her legal team is still looking into the details.

J. Vance urged the applicant to modify the Homeowners' Agreement to only permit the use of certified organic pesticides. R. Metcalf suggested that the space between trees and type of "street trees" used could be improved for better canopy and shading. Metcalf also called for the plan to be amended and notation to be made in the Findings of Fact that one lot has already been developed so this application is clearly for authorization to develop nine [9] only lots.

C. MacClinchy then proceeded to a Finding of Facts.

Town of Kennebunk Planning Board

FINDINGS OF FACT AND CONDITIONS OF APPROVAL

FINAL MAJOR SUBDIVISION PLAN OF: Highland Rose Subdivision Name

1. Property Owner: Christopher Barstow Builders, LLC
2. Site Location: 433 Alfred Road
3. Size and # of lots/units: Creation of 9 residential lots on 71.66 acres.
4. Zoning District (s): Rural Residential, Resource Protection, & Shoreland Overlay
5. Assessor's Map 23 Lot 1
6. Applicant: Christopher Barstow Builders, LLC has shown legal interest in the property by deed.
7. INFORMATION REVIEWED BY PLANNING BOARD:
 - Staff reviews (Fire Chief, Police Chief, Planner, Town Engineer): X
 - Sketch: 10/12/2020 & 11/23/2020
 - Site Walk completed by Board: 10/31/2020
 - Completeness: 2/22/21
 - Public Hearing: 3/22/21
 - Conservation Commission: X
 - State/Federal Reviews: X

CONDITIONS/WAIVERS:

1. Modification of the street trees shown on the landscaping plan to have species that provide greater shade and coverage on the street and be placed closer together.

2. Add a note to the plan addressing the out parcel lot only being included on the plan for the MDEP stormwater permit.
3. Certification must be submitted that the structures meets the standards for energy efficiency in the open space ordinance due to the granted density bonus.
4. The HOA documents need to be modified to include language about certified organic pesticides.

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

 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____, not met____, N/A X, met with following conditions and or waivers

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 Town Engineer reviewed the erosion control plan.

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:

The will be installing private septic systems and will not use public sewer.

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 credit 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:

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 stormwater management.

Standard is met X, not met ____, N/A ____, met with following conditions and or waivers
The stormwater management plan has been reviewed by the Town Engineer and state DEP.

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 – this is for a 9-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

Highland Rose
Subdivision Name

Motion: D. Smith moved to approve the Findings of Fact and conditions for approval for 433 Alfred Road, Map 23 Lot 01, for the creation of nine residential lots on the conditions that: (1) the landscaping plan be modified for better tree spacing and the selection of better "street tree" species to afford more canopy and shade, (2) the plan be amended to recognize that lot nine is only being shown on the plan for the DEP permit, (3) the applicant needs to submit documentation during the building process stating the houses meet

the energy efficiency bonus standard, and (4) the Home Owners' Agreement be amended to only permit the use of certified organic pesticides.

Second: R. Smith

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

Motion: D. Smith moved to approve the final Subdivision Plan for Highland Rose, 433 Alfred Road, Map 23 Lot 01, for nine [9] lots on 71.6 acres with the conditions stipulated above.

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 24, 2021 minutes. Several errors were identified and corrections made. Motion was then made to approve the minutes of May 24, 2021 as corrected.

Motion: D. Smith

Second: R. Smith

Vote: Roll-call vote, 4 in favor, 1 abstention [R. Metcalf had not attended the May 24th meeting], none opposed; the motion carried.

4. Adjournment: There being no further business, the Chairman adjourned the meeting at 9:08pm.

Motion: D. Smith moved to adjourn.

Second: R. Smith

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 28, 2021.

Signed by  6/29/21

Planning Board