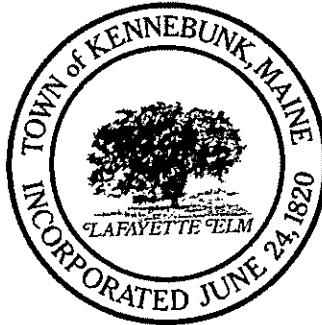


# Town of Kennebunk, Maine



## Planning Board

### MEETING MINUTES

July 11, 2022

In Person Meeting, Town Hall, 3<sup>rd</sup> Floor, 1 Summer Street, Kennebunk

This meeting was held in person and televised on Cable TV Channel 5.  
It is available for public viewing at any time at [TownHallStreams.com](http://TownHallStreams.com).

Present: Chris MacClinchy [Chair], Richard Smith [Vice Chair], David Smith [Secretary], Robert Metcalf [Member]; Janice Vance [Member], Edward Trainer [Alternate], and Daniel Kiley [Alternate].

Absent: None;

Also Attending: Brittany Howard [Town Planner], Glenn Farrell [YFI Custom Homes], and Geoffrey R. Aleva [Civil Consultants].

- 1. Call to Order:** Chair and presiding officer C. MacClinchy called the meeting to order at 7:00pm on July 11, 2022. The meeting was held in person. D. Smith arrived at 7:06pm. There were consequently five voting members present: C. MacClinchy, R. Smith, D. Smith, R. Metcalf, and J. Vance.

## 2. Agenda Items

- a. Preliminary — Special Exception — Gooch Avenue — Map 93 Lots 67, 70, 74, 75, 76 and 78**
  - B. Howard introduced this application to fill 1,934 sq. ft. of Priority I wetlands on Gooch Avenue. The fill is sought to permit (1) construction of a house on Lot 70 [1,490 sq. ft.], (2) creation of a "wetland rehabilitation connector" behind the proposed house [1,220 sq. ft.], and (3) road improvements in the area between Lots 67, 70, 74, 75, 76, and 78 [444 sq. ft.].

There is an existing garage on Lot 70, Howard stated, and the zoning is “Coastal Residential District” as well as “Shoreland Overlay District”.

B. Howard reminded members that this application had previously come before the Planning Board on May 9, 2022. At this meeting, Howard said, the Planning Board had also requested additional information. Applicant Glenn Farrell duly provided that information in his latest submittal, Howard stated.

Howard then recounted the findings of several review groups. Kennebunk’s Conservation Commission had reviewed the plan on May 2, 2022, the memo was provided to the Board and applicant.

The Town’s Code Enforcement Office, Howard said, had likewise reviewed the plan and found fault with the access it proposes. Code Enforcement Officer Brian Paul specifically determined that access via an easement at 137 Beach Avenue [Map 93 Lot 76] would not be possible as an easement there would make the Beach Avenue property [Map 93 Lot 76] more non-conforming and, hence, could not be approved.

Applicant Glenn Farrell then addressed the Board, explaining why the proposed access road would, after all, make the property less non-conforming. He used an aerial diagram to illustrate the wetland areas and proposed roadway and house.

J. Vance asked questions about the Gooch Avenue access, and G. Farrell affirmed that Gooch Avenue would be used for emergency access as it would be less intrusive on neighbors and the primary access would take place on property owned by family members off Beach Ave. Vance asked what would happen if the properties were sold, and G. Farrell replied that no formal easement was contemplated at this time.

D. Riley posed questions about the road. He voiced concern about the potential impact of this project on Lots 67 and 74. These and other abutters, B. Howard confirmed, had yet to be notified, but would be invited to a public hearing if and when one were convened.

D. Smith urged G. Farrell to consider moving the proposed house closer to Beach Avenue, if possible, to avoid the Shoreland Zone. G. Farrell responded that such a move would still be in Shoreland territory.

R. Metcalf questioned the legality of the proposed roadway, and B. Howard affirmed that the Town’s Attorney, Natalie Burns, had reviewed the project and her email was supplied in the packet. Metcalf also asked if terra frames were being used to make the access road “less non-conforming”, and G. Farrell responded in the negative. The project will use terra frames, Farrell affirmed, but will do so to limit the pavement onsite, not “less non-conformity”.

R. Smith inquired where the proposed “replacement wetland” would be created. G. Farrell responded that the “new” wetland would be created immediately next to the existing one (the one to be partially filled). G. Aleva, representing a civil engineering group hired for the project, explained how and where a “water connection” would be created to link

the neighboring wetlands. It has Department of Environmental [DEP] approval, Aleva stated.

R. Smith then asked if a culvert would be needed because of the wetland fill, and G. Farrell and G. Aleva responded in the negative. R. Smith also asked if the proposed house would be built on piers to elevate it and avoid possible flooding, and G. Farrell answered that the house would instead be built on a slab set on a 4-ft. foundation. "We are not putting in a basement," Farrell affirmed. R. Smith also asked if the Fire Department had approved the project, and G. Farrell stated that he had solicited, but had not yet received, Fire Department feedback.

E. Trainer thanked the applicant for the plan changes since the last submission. Trainer also questioned the impervious surface of the road, and G. Farrell described how his team proposed to reduce it.

MacClinchy reminded Farrell that the gravel roadway and "turf rings" which the revised plan envisions would still constitute "impervious" surface. The turf rings, MacClinchy concluded, should be counted in the impervious lot coverage.

C. MacClinchy asked if the lines depicted in the revised plans represented retraining walls, and G. Farrell affirmed that the lines did not represent structures, but were rather wetland boundary lines. MacClinchy then noted that the legal access for this property would be via Gooch Avenue. The address, B. Howard affirmed, would have to be a Gooch Avenue address, as well.

D. Smith next observed that the general area of this property has historically been subject to flooding when rainfall is intense. D. Smith, R. Metcalf, and J. Vance urged the applicant to consider elevating the house in some manner. R. Smith concurred.

J. Vance also noted that the house would be built on hydric soil and might therefore be susceptible to sinking. She urged the applicant to consider locating the house in the existing footprint. G. Farrell countered that new building techniques would better distribute the weight of the house and, therefore, mitigate the risk of gradual sinking.

R. Metcalf and other Board members then itemized the additional information identified at today's hearing which G. Farrell was asked to provide: (1) feedback from the Fire Department; (2) the finding of the Conservation Commission after applicant's responses to it; (3) a revision of the impervious calculation; (4) respond to comments about the project from the Town Engineer.

Board members and the applicant then agreed to a site walk on Wednesday, July 20<sup>th</sup>, 2022 at 6:00pm. For it, C. MacClinchy asked Farrell and Aleva to stake the property to show (1) the corners of the proposed house, (2) the center line of the access road, (3) the existing wetlands, and (4) the location of the proposed replacement wetland.

The Planning Board likewise agreed to schedule a public hearing on this application on August 8, 2022.

**b. Preliminary – Review – Zoning Language Proposals**

B. Howard next introduced proposals for several zoning language changes. The Town’s “Wetland Mitigation Ordinance” [WMO], she said, had been approved by voters on June 14, 2022, but lacked precise, commonly used definitions, included potentially problematic timelines, and did not clearly spell out permit extension guidelines.

**Article 2 Definitions**

The new WMO language, Howard stated, includes definitions used by the Army Corps of Engineers or Maine’s Department of Environmental Protection (Chapter 1000 and Natural Resource Protection Act). A copy of these definitions is attached. They would clarify the terms contained in Kennebunk’s Ordinance, Howard said.

J. Vance, D. Smith, R. Smith, D. Riley, and E. Trainer agreed with the definitions. B. Howard affirmed that, if so agreed by the Planning Board, the language would go to a public hearing in August of this year and to public vote in November, 2022.

**Article 7 Special Exceptions**

Howard next called the Board’s attention to the language contained in Article 7 Section 2.F (“Special Exception Application Procedures”) of the WMO. That language states:

*“...a permit granted by the Planning Board under the provisions of this article shall expire if the work or change involved is not commenced within six (6) months of the date on which the permit is granted, and if the exterior work or change is not substantially completed within one (1) year of the date on which such permit is granted.”*

The permit time validity spelled out by the above language, B. Howard said, is potentially problematic. The Article does not clarify how validity extensions might be granted. Howard therefore asked the Board to consider alternative language instead.

Board members discussed Howard’s recommendations at length. In the course of that discussion, B. Howard affirmed that the permit validity for cell phone tower projects was different, but probably should have the same treatment. Board members concurred.

Members therefore asked Howard to revise her Special Exception language proposals with Town Attorney N. Burns. Members also agreed to hold a public hearing on these latter language changes on August 8, 2022.

**3. Prior Minutes**

C. MacClinchy then led the Board in a page-by-page review of the minutes of its June 27, 2022 meeting. Board members identified several errors, and corrections were duly made.

**Motion: Move that the Planning Board of the Town of Kennebunk approve the minutes of its June 27, 2022 meeting as corrected.**

**Moved: D. Smith**

**Second: R. Smith**

**Vote: Show-of-hands vote, 5 in favor, none opposed; the motion passed.**

**4. Other Business**

There was none.

**5. Adjournment:** There being no further business, the Chair adjourned the meeting at 8:24pm.

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

Moved: D. Smith

Second: R. Smith

Vote: **Show-of-hands vote, 5 votes in favor, none opposed; the motion carried.**

Respectfully submitted by  
J. Schlagheck, Clerk

Adopted by the Planning Board in its Meeting of July 25, 2022

Signed by:

  
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PLANNING BOARD

7/25/22

