

Town of Kennebunkport
LD 2003 Joint Workshop
February 20, 2024
6:00 PM
Village Fire Station (32 North Street)

MINUTES

Selectmen attending: Mike Weston, Sheila Matthews-Bull, Allan Daggett, Jon Dykstra, Marybeth Gilbert.

Planning Board members attending: Tom Boak, Nina Pearlmutter, Ed Francis, Larry Simmons, George Lichte.

Growth Planning Committee (GPC) members attending: Dan Saunders, Paul Hogan, Liz Johnson, Jane Evelyn.

1. Call To Order.

Chairman Weston called the meeting to order at 6:00 PM. Tom Boak called the Planning Board to order with five members present, and Dan Saunders called the Growth Planning Committee to order with four members present.

2. LD 2003 Land Use Ordinance amendments presentation.

Galen Weibley, Director of Planning and Code Enforcement, introduced Hilary Gove from the Maine Department of Economic and Community Development (DECD), one of the state's housing coordinators helping with the implementation of LD 2003.

Hilary described the three “buckets” (statutes) that the State is requiring of municipalities:

Accessory Dwelling Units (ADUs) – the law requires municipalities to allow at least one ADU on a lot with an existing single-family home. The ADU can be within, attached to, or detached from the home. The law specifies a minimum ADU size of 190 sq ft., but not a maximum size. The municipality can establish a maximum size if it wishes. ADUs are exempt from density or lot area per dwelling unit requirements. Additional parking for the ADU cannot be mandated.

Up to Four Dwelling Units – the law allows 2-4 dwelling units on residential lots. Up to two units are allowed on lots without an existing unit. Lot area, setback, and road requirements are still in effect if they have already been established. If the undeveloped residential lot is in a designated growth area, up to four units could be built, though still subject to the existing requirements. If one existing dwelling unit exists, up to two additional units can be built (within, detached, or detached). Shoreland zoning requirements are still in effect.

The difference between an Accessory Unit and a Dwelling unit can be challenging to determine, particularly if there is no ADU maximum size. Kennebunkport has set a maximum size.

Discussion ensued regarding the required lot size per dwelling unit as it applies to single-family, two-family, and multiplex homes. Galen noted that the Growth Planning Committee has not yet taken up the “Up to Four Dwelling Units” bucket. Therefore there will be no Land Use Ordinance (LUO) changes regarding this provision put before the voters in June.

Affordable Housing Density Bonus – applies to municipalities (like Kennebunkport) that have zoning and density requirements and allow multiplexes. This only applies to developments that meet the criteria for being affordable as defined by Federal Law. 51% or more of the units must be affordable, the development must be in an area with zoning and multi-family housing and must be in a growth area **or** served by municipal water & sewer.

Where Kennebunkport is regarding these statutes:

- Accessory Apartments – the provision was voted on in 2023. The GPC had questions relating to stormwater and nonconformance, addressed with LD 1706, stating that a nonconforming lot can have an internal ADU but cannot if it makes the lot more nonconforming. We also established a one-per-lot rule for accessory apartments.
- Affordable Housing Bonus – we added a definition for affordable housing based on household and average median income and the language regarding the 2.5x housing density bonus. The current LUO specifies a minimum of two parking places per dwelling, and we are changing that to a less stringent .66 parking spaces per unit (or 2 parking spaces for three dwellings) to bring it into compliance with LD 2003.

Discussion ensued regarding the statute's laxer minimum number of parking spaces. Hilary indicated that while the State would not come after municipalities whose local ordinances do not align with LD 2003, it would potentially expose the Town to litigation if an individual or developer brought a civil action against the Town.

Considerable discussion followed regarding the requirement that 51% or more of the units being developed be affordable and the sequence and timing of that. A developer would need to meet this requirement as dwellings are being constructed. For example, they would not be permitted to build market-rate housing first, leaving affordable housing for a later time. A developer would need to include details of how they are meeting the affordable housing requirements in the proposal to the Planning Board, and it would be up to the Code Enforcement Office to ensure that the developer is complying with them.

Galen explained that if HUD or Maine Housing funds are involved, the affordable units must be built to the same standards as the market-rate units in the development. It was agreed that there are few developments that are exclusively privately funded and do not take advantage of these financing incentives.

- 2-4 Units – the GPC touched on this briefly, but there were many questions, and we will not be covering it until November.

Galen then opened the workshop to questions.

Ed Francis asked about the funding and marketing of market-rate units vs. the affordable units of an affordable housing project. Laurie Smith, the Town Manager, responded that the HUD regulations overlay the entire project.

Jane Evelyn recommended that the growth areas of town be re-examined, and Selectman Gilbert agreed, saying that a description of the growth area being within 1,000 ft of sewer seemed inadequate to her. Galen recommended against it, stating that the Town had just recently completed a lengthy process to have the LUO approved by the voters, and changing the growth areas would require Select Board approval and a public vote to make such changes to the LUO. He added that Kennebunkport has a high cost of land in addition to the construction (labor & material) costs seen across the state. Therefore, he does not foresee a large amount of affordable housing coming to town in any event.

Chairman Weston asked if Hilary knew of any large-scale affordable housing developments currently being constructed in Maine. She did not, but stated she would try to find some examples. Discussion followed about the difficulty in building affordable housing because of the current economic conditions.

Galen answered other questions regarding connection to Town sewer or installation of septic systems, and the growth permitting process.

Traci Gere, State Representative, via Zoom suggested that we have someone inform Town staff about how affordable housing works, pointing out that there is a difference in the process and requirements for housing purchase vs. rental.

Galen and Laurie answered questions from Zoom participants about building permit limits as they apply to affordable housing (they still apply), and about who is responsible for the process of applying for such housing (the developer, the State and HUD, not the Town).

Paul Hogan asked if someone with an existing home who sells that home would be able to qualify for affordable housing. Larissa Crockett, Executive Director of the Kennebunkport Heritage Housing Trust (KHHT), responded that there is a process for applications. Avesta Housing takes assets as well as income into consideration when determining if a candidate qualifies for affordable housing.

No motion was necessary. No motion was taken.

3. Adjournment.

Motion by George Lichte, seconded by Nina Pearlmutter, to adjourn the Planning Board. **Voted: 4-0. Motion passed.**

Motion by Paul Hogan, seconded by Dan Saunders, to adjourn the Growth Planning Committee. **Voted: 5-0. Motion passed.**

Motion by Selectman Dykstra, seconded by Selectman Matthews-Bull, to adjourn the Board of Selectmen. **Voted: 5-0. Motion passed.**

The joint workshop adjourned at 7:34 PM.

Submitted by,
Dave Powell,
Technology Specialist