

**Kennebunkport Planning Board**  
**June 1st, 2022 @ 6:00 PM**  
**Meeting Via ZOOM**

A meeting of the Planning Board was held virtually on Wednesday, June 1st, 2022 via the ZOOM format. The meeting convened at 6:00 p.m.

Members Present: Mr. Tom Boak (Chair), Nina Pearlmutter, D. Scott Mahoney, Ed Francis, Larry Simmons

Mr. Boak also confirmed with the videographer there were 4 additional attendees signed on to the meeting.

Approval of Minutes: Prior to tonight's meeting, Ms. Pearlmutter made a minor amendment to the minutes from the May 4th, 2022 Planning Board meeting. Ms. Pearlmutter read her proposed change to said minutes to the rest of the Planning Board members. Mr. Simmons made a motion to approve said amended minutes. Mr. Mahoney seconded the motion, and the vote was unanimous.

Ms. Pearlmutter made a motion to approve the minutes of the May 18<sup>th</sup>, 2022 Planning Board meeting. Mr. Francis seconded the motion, and the vote was unanimous.

Items:

1. **220303 Nunan's Lobster Hut, Inc. / Richard, Keith, and Terri Nunan – Site Plan Review – Public Hearing –** propose outside seating for 32 customers (11 Mills Road, Assessor's Tax Map 22, Lot 7, Block 28 in the Cape Porpoise Square Zone).

Mr. Boak introduced the agenda item.

Mr. Boak acknowledged there were some minor modifications the Board asked the Applicant to make on the Application and asked if the Applicant had anything else to add at tonight's meeting. Mr. Nunan responded No; they had no additional information.

Mr. Simmons thanked the Nunans for updating their application and asked why there is a line on the Application that states the existing interior square footage is 45.75 square feet. Ms. Nunan replied there are no changes to the interior square footage.

Mr. Simmons expressed his confusion on the address of the property as it is listed as 9 Mills Road and 11 Mills Road. Ms. Nunan explained the property is one lot with 2 buildings and for 9-1-1 EMS purposes it needed to have two distinct addresses, so the restaurant is 11 Mills Road and her residence is 9 Mills Road. The Assessor's card lists the address as 11 Mills Road, Ms. Nunan added.

Mr. Rubin offered to communicate with the Assessor regarding the Vision property card and get some clarification for the Board.

Mr. Simmons asked if the Application could be updated to reflect the correct responses to items regarding the square footage of the property as there is no change and those items are not applicable to this Application. Ms. Nunan agreed to speak with the Code Enforcement Office to correct that.

Regarding the parking requirements in the Land Use Ordinance, Mr. Simmons commented the Applicant is required to have 1 parking space for every 3 seats which would mean they need 39 parking spaces. Ms. Nunan responded they have 46 spaces. Mr. Francis suggested perhaps the parking information could be recorded in the Findings of Fact.

Lastly, Mr. Simmons noted receipt of the revised site map indicating the 75-foot setback and the 250-foot setback referencing the zone map of 2010.

Ms. Pearlmutter stated her confusion in that a restaurant is a conditional use in the Cape Porpoise Square Zone and since this property is also in the Shoreland Zone it is non-conforming because a restaurant is not a permitted use in the Shoreland Zone. So, by expanding the restaurant, Ms. Pearlmutter continued, the property is more non-conforming.

The Board members and Mr. Rubin had a lengthy and detailed conversation on permitted uses in the Cape Porpoise Square Zone and underlying zones with respect to this Application.

Referring to notes he received prior to tonight's meeting from Mr. Werner Gilliam, Mr. Rubin stated the reason that the expansion of this existing conditional use is even being considered or brought to the Planning Board is because there is no additional structure and that the picnic benches are going onto existing hardscape and existing impervious surfaces. Mr. Rubin also noted that parking lots are considered at their maximum capacity for maximum use always so even if the parking lot historically may be used only half of the lots there is enough capacity.

Mr. Boak opened the Public Hearing.

Ms. Sam Troegner, a resident of the town addressed the Board in full support of the Nunan's Application adding there have been no issues in the two years they have had the outdoor seating.

Ms. Anne Leigh, an abutter also addressed the Board to express she and her husband's full support of the Applicant stating they have no issues with the plan to continue the outdoor dining and have found it to be a festive addition to the area.

There were no further comments or questions from the viewing audience.

Mr. Boak closed the Public Hearing.

Mr. Francis asked the Board members if there should be a condition stated in the Findings of Fact as a requirement to protect the outdoor patrons with a safety barrier. The Applicants expressed their agreement with such a condition that they will work with the Code Enforcement Officer and the town to put in the correct barrier.

Mr. Francis made a motion assuming the editorial changes are made on the Application as discussed previously in this meeting, the Application is approved. Mr. Simmons seconded the motion, and the vote was unanimous.

Mr. Boak announced the Findings of Fact will read at the next Planning Board meeting on June 15<sup>th</sup>, 2022.

**Adjournment:** A motion was made to adjourn. It was seconded, and the vote was unanimous.

**Submitted By:** Patricia Saunders, Planning Board Recording Secretary