

# Journal Tribune

**Readers' Forum**  
**Thursday, April 26, 2012**

## **Kennebunk review board ignored residents' concerns**

The 19th of April, 2012 will long be remembered as the night when the Kennebunk Site Plan Review Board pounded the final nail into a way of life enjoyed by Lower Village and Chase Hill residents for decades, if not centuries. The board's unanimous vote to approve the change request for The Grand Hotel - from pedestrian centered, small retail shops to an automobile-centered clientele seeking personal services of spa, hair salon and take-away café - came after two public hearings where resident after resident spoke against it.

Residents learned over the weekend that the newly acquired tenants at The Grand had already begun advertising their new business location sometime prior to the board's April 19<sup>th</sup> approval. It seems that Pat Foley was onto something when she said at the hearing: "Something smells here and I don't like it. This smells like a done deal!"

However, after these revelations, many residents described their shock quotient to be of the same quality as Captain Renault's when German commander Major Strasser ordered him to shut down Rick's Cafe Americain in the film "Casablanca." When asked by Rick what's going on, Renault replies: "I am shocked! Shocked, to find that there is gambling going on here!"

Site plan review board members Philip Parker and Matthew W. Fagginer stated that an up-to-date

survey to define historically vague property lines would be in the community's interest before installing a sidewalk to avoid potential challenges, but their recommendation was ignored. Parker, along with some residents wondered aloud who is going to referee the tearing up of the neighbors' lawns to make way for the new sidewalk.

When the public comment session was closed, a board member addressed the developer and his two handlers by their first names, and praised them for their fine presentations, thanking them for a "lovely building" that enhances Lower Village. That view is diametrically opposite to the critique of a very many residents who see it as a gargantuan, ugly and inappropriately sited development which is offensive to community standards of taste and geared only to provide visitors "high line luxury in a casually chic and hip venue" (from website promo) at the neighborhood's great expense. The board gave no word of thanks to the residents for their contributions.

As Lower Village Kennebunk residents spilled out into the moonless night around 10 o'clock, the words of Bonnie Clement, owner of H.B. Provisions, lingered in the air: "What if all of these issues that all of us in our community bring up, start to come true? What are we going to do if we find out Chase Hill residents have their lawns torn up to have a sidewalk put in, encroaching into their windows?"

The unanswered question remains: What does it mean to a community, deeply affected by a decision of change, when a board of planners and its managers, not only refuse to answer questions of the community but even to acknowledge them?

**Bob Lyons, Kennebunk**

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of complete letter. *Continued below*>>**

## First Amendment Challenge

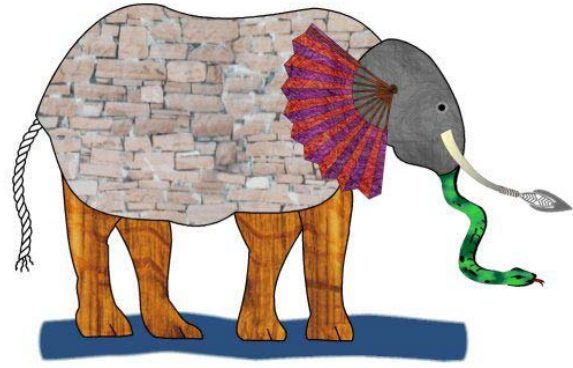
This 2<sup>nd</sup> scheduled public hearing got off to a rocky start when Lou Costa, alternate non-voting board member, was challenged to recuse himself amid allegations that he had discussed “ex parte” matters with a resident and had participated in a public meeting of the Lower Village Committee of which he is an official member. The challenge apparently came from town attorney, Natalie Burns who was allowed by Chairman Gary Dugas to interrogate Mr. Costa to divulge contents of his conversations. No corroborating witnesses were sought to support Costa’s account of his conversations, a curious omission if town attorney was in fact serious in her watchdog efforts to disqualify the member. The censure effort failed and the board voted to acquit Costa of any impropriety. The resident involved in the private conversation, Mr. Mike Moser, later charged that this tactic was intimidation.

The question does arise as to whether or not a town attorney could be held liable for illegal monitoring and intrusion into a private conversation. There had been earlier attempts by the same attorney and by the developer’s lawyer to muzzle residents from speaking about any issue other than the proposed sidewalk. A knowledgeable neighbor was overheard to suggest that the town must soon organize a mandatory workshop for its staff and board members on the first amendment of the United States Constitution which protects the citizens’ right of freedom of speech, including the right to criticize the government. The clear message from the town of Kennebunk to its citizens is: Mind your mouth! And flee from accidental encounters with a member of a town board lest the town monitor catches anyone in some “ex parte” discussion.

For the next hour and a half, concerned neighbors attempted, without success, to convey the strain and impact on their lives and homes if the change request was to be approved. They made the case that The Grand development along with the other recent development of “that nearby restaurant/bar” precipitates an escalation of traffic, pollution, and noise, and it will increase competition for available inadequate parking and potential injury to neighborhood children and seniors. The board would not allow any mention or reference to these problems precipitated by this dual development reality.

## Elephant in the Room

Throughout the hearing, it was clear to all in the audience that there was an elephant in the room, and the name of the elephant was “Tia Grand”. No one at the board’s table would acknowledge it, and all claimed that they had the full picture to make an intelligent decision on the change request.



The board and town staff’s behavior reminds one of the ancient fable of six blind men and the elephant. Each man grabs a different part of the elephant, the leg, tail, trunk, ear etc. and declares what it is, depending upon where he touched the elephant. The fable concludes, each blind man:

**Disputed loud and long,  
Each in his own opinion  
Exceeding stiff and strong,  
Though each was partly in the right,  
And all were in the wrong!**

MORAL:

**The disputants, I ween,  
Rail on in utter ignorance  
Of what each other mean,  
And prate about an Elephant  
Not one of them has seen!**

The Kennebunk site plan review board proceeded to unanimously approve “an elephant not one of them had seen!”

Respected businessman and artist, Will Cunha reported that starting one year ago, all available street parking spots near his gallery at 11 Western Avenue were routinely occupied all day by employees of nearby businesses which hurts local shops, leaving no spaces for customers. Those same

public spaces were identified by The Grand as part of the available quotient of required parking spaces. The board told Mr. Cunha that there was nothing it could do about that. Apparently, the town has never conducted an actual count of available parking places on the streets of Lower Village. Residents previously reported that there is no regular police enforcement in the area.

### **Developer claims road, sidewalk**

The developer, who had referred to neighbors as “the opposition” was given carte blanche permission to dig up their private property and lay down the first ever sidewalk on Chase Hill road without established legal authority to do so. The developer said: “We will keep to the edge of the road (which he claims to own) so we don’t have to encroach any further than we have to on the neighbors.” The developer will lay claim to his victory and decide where to make the first cut in the grass, not the town nor the homeowner. That encroachment would put the sidewalk within ten feet from the bedroom of one neighbor’s home.

After the shower of accolades on the developer, no member of the site planning review board spoke one word of thanks or appreciation to the many civic minded residents who over the past two hearings respectfully stated their concerns and objections. For many, this final neglect bordered on rudeness if not insult to the body politic and it further eroded confidence in the integrity of town boards and public officials and of public discourse with taxpayers. A neighbor who had never attended any town meeting before said: “This is a farce. They did not hear anything that was said.”

Another neighbor who viewed it as public theater observed that “the chairman did not seem to know basic procedures of conducting a public meeting and appeared confused. It was more like a marionette show with puppeteers at stage left who not only pulled the strings but provided the script to board, with prompts as needed.”



“People used to come to Maine to embrace and revel in its unique character and landscape” according to Maine author, Colin Woodard, who spoke recently at Graves Library, Kennebunkport. In the morning-after buzz following the April 19th vote, a shopkeeper was heard to say: “People come to the Kennebunks to see the old, the harbor, the river and boats, not something from Las Vegas or the Atlantic City strip. And did you hear the new development at the landing will be a wall of glass along the river?” He concluded: “Nobody knows who will have the last laugh when the tourists stop coming here.”

Many entrepreneurs are coming not to embrace Maine, but to remake it into something it never was for their self-serving marketing purposes and for investors. These recent developments have yet to demonstrate whether they came to embrace Lower Village without destroying its unique character and landscape or simply to remake it to enhance their own pockets. The unresolved litany of neighbors’ concerns suggests that they have a long ways to go to persuade area residents that they are concerned to build businesses that respect and preserve the unique character, history and soul of a neighborhood once called Harbor Village.

The unanswered question remains: what does it mean to a community, deeply affected by a decision of change, when a board of planners and its managers, not only refuse to answer questions of the community but even to acknowledge them?

**Bob Lyons  
Kennebunk**