

**TOWN OF KITTERY, ME
PLANNING BOARD MEETING
Council Chambers**

**UNAPPROVED
JUNE 9, 2016**

1 **Meeting called to order: 6:02 pm**

2
3 **Pledge of Allegiance**

4
5 **Roll Call:**

6 Board members present: Chair Ann Grinnell, Vice Chair Karen Kalmar, Robert Harris, Brett Costa, Dutch
7 Dunkelberger, Debbie Driscoll-Davis, Mark Alesse

8 Board members absent: None

9 Staff present: Chris Di Matteo, Town Planner

10
11 **Public Comment:** Ms. Grinnell opened the floor for public comment. Hearing none; the floor was closed
12 for public comment.

13
14 **Minutes – 5/12/2016**

15 **Ms. Kalmar made a motion to accept the meeting minutes dated 5/12/2016.**

16 **Ms. Driscoll-Davis seconded.**

17 **Motion passed 7-0-0.**

18
19 **Minutes – 5/26/2016**

20 Line 6 – indicate 7:00pm arrival of Brett Costa under Roll Call.

21 Line 44 – replace “Gabe” with “David”

22
23 **Mr. Dunkelberger made a motion to accept the meeting minutes dated 5/26/2016.**

24 **Ms. Driscoll-Davis seconded.**

25 **Motion passed 7-0-0.**

26
27 **NEW BUSINESS**

28
29 **ITEM 1 – Durgin Pines – Major Modification to an Approved Plan**

30 **Action: Accept or deny plan application. Schedule a public hearing.** Owner and applicant Continuum Health
31 Services requests approval for a 2nd plan modification to the 2008 approved amended site plan for Durgin
32 Pines nursing home, located a 9 Lewis Road (Tax Map 61 Lot 27) in the Mixed-Use Zone. Agent is Bradlee
33 Mezquita, P.E. with Tighe & Bond.

34
35 Mr. Gary Chicoine explained the proposed plan, which intends to add 14 parking spaces plus a 2,500 sq. ft.
36 addition for a physical therapy office.

37
38 Mr. Dunkelberger asked to clarify the location of the proposed addition and parking spaces. Mr. Chicoine
39 clarified the location and noted the proposed parking spaces will be extended along the inside curb.

40
41 Ms. Kalmar asked whether the plan includes physical therapy on the second floor and access to the attic. Mr.
42 Chicoine replied the second floor is only for staff offices and one set of stairs will allow for access to the attic.

43
44 Mr. Di Matteo noted the plan requires a public hearing. He asked that additional information be provided
45 prior to the next meeting regarding the sketch and responses to CMA’s questions. Mr. Di Matteo stated that
46 CMA agreed the storm water management plan does not require further revisions, however, a proposed
47 grading plan should show how the development will impact the existing drainage system. He added that the
48 grading plan be certified by a registered engineer.

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50 Mr. Di Matteo noted a site plan of the building be provided in addition to.

51
52 **Ms. Kalmar made a motion accept the plan application for Durgin Pines for owner and applicant**
53 **Continuum Health Services located at 9 Lewis Road (Tax Map 61 Lot 27) in the Mixed-Use Zone and**
54 **move to schedule a public hearing for the plan application for Durgin Pines for owner and applicant**
55 **Continuum Health Services located at 9 Lewis Road (Tax Map 61 Lot 27) for July 14, 2016.**
56 **Mr. Dunkelberger seconded.**

57
58 Mr. Costa asked to clarify the location of the parking.

59
60 Mr. Di Matteo indicated that once the additional documentation is received, the staff departments can review
61 the plan before the next public hearing.

62
63 The Board agreed a site walk would not be necessary.

64
65 **Motion passed 7-0-0.**

66
67 **ITEM 2 – 2 Follett Rd – Shoreland Development Plan Review**

68 Action: Accept or deny plan application; Approve or deny plan. Owner/applicant Don and Merry Craig
69 request consideration to expand a single-family dwelling located within the 100-foot setback from a protected
70 water body. The site is located at 2 Follett Lane (Tax Map 18 Lot 36) in the Residential – Kittery Point
71 Village (R-KPV) and Shoreland Overlay (SH-OZ-250') Zones. Agent is Robert Lang, Lang Restoration.

72
73 Mr. Craig presented a picture of the house that previously existed. He explained the proposed plan intends to
74 to renovate the garage into an in-law apartment. The renovation includes flattening a dormer to allow for
75 more space, which would not alter the outside footprint of the dwelling.

76
77 Mr. Craig confirmed to Mr. Di Matteo that the structure is currently not an in-law apartment.

78
79 Mr. Dunkelberger cited the written staff comments that indicate accessory and intra-family dwelling units are
80 not permitted in the Shoreland Overlay Zone. Mr. Di Matteo explained why a variance would be required in
81 this situation since it falls in the Shoreland Overlay Zone. He noted that further review of the application is
82 necessary given that information received in the meeting.

83
84 Ms. Driscoll-Davis clarified the distinction between an in-law apartment versus intra-family.

85
86 **Ms. Kalmar made a motion to continue the application for owner/application Don and Merry Craig for**
87 **2 Follett Road (Tax Map 18 Lot 36) in the Residential – Kittery Point Village (R-KPV) and Shoreland**
88 **Overlay (SH-OZ-250') Zones until July 14, 2016.**

89 **Mr. Dunkelberger seconded.**

90 **Motion passed 7-0-0.**

91
92 **ITEM 3 – 17 Island Ave – Shoreland Development Plan Review**

93 Action: Accept or deny plan application; Approve or deny plan. Owner/applicant Shelley Wieler requests
94 consideration of plans to demolish and expand an existing single-family dwelling, located within the 100-foot
95 setback from a protected water body. The site is located at 17 Island Ave (Tax Map 1 Lot 8) in the
96 Residential-Urban (R-U) and Shoreland Overlay (SH- OZ-250') Zones. Agent is Doug Greene, Port City
97 Design.

98

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99 Mr. Greene explained that the proposed plan consists of an existing non-conforming property with 2
100 buildings; one cabin structure, one main house. The owner/applicant would like to expand the property within
101 the permitted 30% expansion by increasing the cabin and deck. After discussion with the abutters, the
102 expansion will be located on the West side outside of the setback.

103
104 Ms. Kalmar asked to clarify an existing walkway.

105
106 **Ms. Kalmar made a motion to accept the application dated May 19, 2016 from owner/applicant Shelley**
107 **Wieler for 17 Island Ave (Tax Map 1 Lot 8) in the Residential-Urban (R-U) and Shoreland Overlay**
108 **(SH- OZ-250') Zones and to schedule a public hearing for July 14, 2016 and site walk on June 7, 2016**
109 **at 9:00am.**

110 **Mr. Dunkelberger seconded.**

111
112 Mr. Greene asked on behalf of the owner/applicant if they can build on the location after demolishing the
113 existing foundation. Mr. Di Matteo explained that the Planning Board would deliberate whether the building
114 could be located further away from the protected resource when the market value would be 50% or more. Ms.
115 Kalmar referred Mr. Greene to Section 16.7.3.5.4 and 16.7.3.5.6. Ms. Driscoll-Davis suggested to consider
116 implications of raising the elevation of the foundation.

117
118 Mr. Greene asked to clarify the distinction between pervious and impervious surfaces. He explained that the
119 deck on the main house consists of asphalt, yet the deck off the cabin does not consist of asphalt. Mr. Di
120 Matteo it does not deal mainly with pervious or impervious surfaces. Instead, Mr. Di Matteo explained the
121 distinction between vegetated and devegetated areas and suggested Mr. Greene refer to the definition of lot
122 coverage.

123
124 **Motion passed 7-0-0.**

125
126 **ITEM 4 – 2 Hutchins Cove Drive – Shoreland Development Plan Review**

127 Action: Accept or deny plan application; Schedule a public hearing. Owner/applicant Kim Killeen requests
128 consideration of plans to construct a single-family dwelling on a vacant lot located at 2 Hutchins Cove Drive
129 (Tax Map 39 Lot 3-9) in the Residential-Rural (R-RL) and Shoreland Overlay (SH-OZ-250') Zones. Agent is
130 Ken Markley, North Easterly Surveying.

131
132 Mr. Markley explained a brief history of the plan. The plan consists of a proposed single family residence on
133 a single family lot approximately 110 feet from Spruce Creek. One modification to the plan included an
134 omitted driveway. He also noted that devegetation should cover 12.3% of the lot.

135
136 Mr. Markley requested on behalf of the owner/applicant to expedite the process and consider the plan for
137 approval with conditions. Mr. Di Matteo noted that staff was not prepared to approve or deny a plan.

138
139 Mr. Dunkelberger asked to clarify an estimate of existing conditions indicated by staff. Mr. Di Matteo
140 explained that the ordinance requires land area in the Shoreland Zone must have a minimum clearing size,
141 thus, the staff noted the lot had exceeded the allowance. Ms. Kalmar referred Mr. Dunkelberger to Section
142 16.9.2.2.D.

143
144 Mr. Markley added that in the past the lot was utilized as a field and further explained a few scenarios
145 regarding the proposed layout. He noted that the owner/applicant is willing to mitigate areas where necessary.
146 Mr. Di Matteo explained that there is no mechanism in the ordinance that can account for mitigation after the
147 fact.

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148
149 Mr. Di Matteo asked whether other locations for the septic system had been considered. Mr. Markley replied
150 that one alternative location closer to the creek is known, which has not been tested. Another option was
151 discussed, yet not recommended since it would have to travel underneath the payment.
152
153 Mr. Kelly Killeen, brother of the owner/applicant, explained additional history regarding the property. He felt
154 the overall lot coverage of 3% is minimal and he would not be in favor of installing the septic system behind
155 the house for concerns of the layout and environment impacts.
156
157 Ms. Kalmar reiterated that mitigation cannot occur after the fact.
158
159 Mr. Di Matteo suggested that there are several alternative options to a proposed septic system that are worth
160 further researching.
161
162 Mr. Costa asked if the revised calculations incorporate the clearing of vegetation. Mr. Dunkelberger further
163 questioned the rear walkway. Mr. Markley clarified what areas are proposed for clearing. Mr. Di Matteo
164 recommended to research what actual clearing sizes are.
165
166 Mr. Costa asked if new trees could be planted to expedite the process. Mr. Markley responded that mitigation
167 would not help. Ms. Kalmar reminded that the trees would need to be planted prior to clearing to remain
168 above the 75% requirement. Mr. Di Matteo clarified that vegetation above 3 meters in height is true canopy
169 and advised to consider that definition when determining what canopy should be protected. Ms. Grinnell
170 recommended that the Planning department continue to resolve the finer details.
171
172 **Ms. Kalmar made a motion to continue the review of 2 Hutchins Cove Drive until the meeting of June**
173 **23, 2016.**
174 **Mr. Dunkelberger seconded.**
175 **Motion passed 7-0-0.**
176
177 **ITEM 5 – 58 Cutts Road – Right of Way Application**
178 Action: Accept or deny plan application; Schedule a public hearing. Owner/applicant Rebecca Emberley
179 proposes a Right- Of-Way to access a new lot located at 58 Cutts Road (Tax Map 66 Lot 7-3) in the
180 Residential-Rural (R-RL) Zone. Agent is Tom Harmon, Civil Consultants.
181
182 Mr. Harmon explained the proposed plan consists of an existing parcel on Cutts Road. The owner/applicant
183 would like to split the property into two in order to sell the two dwelling units. The application was light
184 because the only change is to include a 35-foot roundabout. A waiver was submitted to consider a gravel
185 roadway as a driveway into the rear lot.
186
187 Mr. Harmon noted that one plan was submitted and two more are proposed, but not submitted yet. One for the
188 Right-of-Way and the other for the lot split that the Planning Board would not need to approve.
189
190 Ms. Kalmar asked about the street name. Mr. Harmon replied Olivia Way.
191
192 Ms. Kalmar stated her support for a modification of roadway requirements as depicted in the staff
193 recommendations, which state the first 50-feet be reconfigured. Mr. Di Matteo suggested there be some type
194 of apron for pavement because the Right-of-Way is typically paved even when gravel leads into it. With that
195 said, he recommended if not 50 feet, then 25 feet.
196

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197 Mr. Di Matteo recommended to include a new condition to be depicted on the final plan stating that the
 198 existing third dwelling unit needs to be approved by Town Planner or Code Enforcement Officer as an ADU.
 199 Additionally, he mentioned to add a new condition stating that no more than two existing principle units are
 200 allowed to use the private way.

201
 202 Mr. Di Matteo indicated that the driveway off Cutts Road should be included in the plan.

203
 204 **Ms. Kalmar made a motion to accept the Right-of-Way application dated May 19, 2016 from**
 205 **owner/applicant Rebecca Emberley located at 58 Cutts Road (Tax Map 66 Lot 7-3) in the Residential-**
 206 **Rural (R-RL) Zone and to approve the Right-of-Way plan dated May 19, 2016 for owner/applicant**
 207 **Rebecca Emberley located at 58 Cutts Road (Tax Map 66 Lot 7-3) in the Residential-Rural (R-RL)**
 208 **Zone upon review and voting in the affirmative of the findings of fact.**

209 **Mr. Dunkelberger seconded.**
 210 **Motion passed 7-0-0.**

211
 212 **FINDINGS OF FACT**

NOW THEREFORE , based on the entire record before the Planning Board as and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings as required by Section 16.10.8.3.4. and as recorded below:

FINDINGS OF FACT

Action by the board shall be based upon findings of fact which certify or waive compliance with all the required standards of this title, and which certify that the development satisfies the following requirements:
--

A. Development Conforms to Local Ordinances.

<i>The proposed development conforms to a duly adopted comprehensive plan as per adopted provisions in the Town Code, zoning ordinance, subdivision regulation or ordinance, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.</i>

Finding: The proposed Right-of-Way, with noted conditions and waivers/modifications, conforms to the design and performance standards in Title 16.8 as described in Plan Review Notes 6/9/2016 and does not appear to create or increase any nonconformances to the lot.
--

Conclusion: The Board finds this requirement to be met.

Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining

214

B. Freshwater Wetlands Identified.

<i>All freshwater wetlands within the project area have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.</i>

Finding: It does not appear there are wetlands present on or adjacent to the property.
--

Conclusion: The Board finds this requirement to be met.

Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining

C. River, Stream or Brook Identified.
--

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<p><i>Any river, stream or brook within or abutting the proposed project area 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 38 M.R.S. §480-B, Subsection 9.</i></p>
<p>Finding: It does not appear there are any streams present on or adjacent to the property. Conclusion: The Board finds this requirement to be met.</p>
<p>Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>D. Water Supply Sufficient. {and}</p>
<p><i>The proposed development has sufficient water available for the reasonably foreseeable needs of the development.</i></p>
<p>E. Municipal Water Supply Available.</p>
<p><i>The proposed development will not cause an unreasonable burden on an existing water supply, if one is to be used.</i></p>
<p>Finding: The existing development is currently connected to public water. The proposed development does not cause a burden on water supply. Conclusion: The Board finds this standard is not applicable.</p>
<p>Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>F. Sewage Disposal Adequate.</p>
<p><i>The proposed development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.</i></p>
<p>Finding: The existing development is currently connected to private sewer and the proposed development does not impact sewer.. Conclusion: The Board finds this standard is not applicable.</p>
<p>Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>G. Municipal Solid Waste Disposal Available.</p>
<p><i>The proposed development will not cause an unreasonable burden on the municipality’s ability to dispose of solid waste, if municipal services are to be used.</i></p>
<p>Finding: The proposed development will not produce an increase in solid waste. Conclusion: The Board finds this standard is not applicable.</p>
<p>Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>H. Water Body Quality and Shoreline Protected.</p>
<p><i>Whenever situated entirely or partially within two hundred fifty (250) feet of any wetland, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.</i></p>
<p>Finding: The development is not within the setback of any regulated (non-forested) wetland located on the lot.</p>

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Conclusion: The Board finds this standard to be met.
Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining
I. Groundwater Protected.
<i>The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.</i>
Finding: The proposed development will not adversely affect the quality or quantity of groundwater. Conclusion: The Board finds this standard has been met.
Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining
J. Flood Areas Identified and Development Conditioned.
<i>All flood-prone areas within the project area have been identified on maps submitted as part of the application based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the proposed development, or any part of it, is in such an area, the applicant must determine the one hundred (100) year flood elevation and flood hazard boundaries within the project area. The proposed plan must include a condition of plan approval requiring that principal structures in the development will be constructed with their lowest floor, including the basement, at least one foot above the one hundred (100) year flood elevation.</i>
Finding: The property is not located within a flood prone area. Conclusion: The Board finds this standard is not applicable.
Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining
K. Stormwater Managed.
<i>Stormwater Managed. The proposed development will provide for adequate stormwater management</i>
Finding: The existing driveways are proposed to be used. Separate driveways to each lot exist with no modification. A minor addition of a turnaround is proposed for the driveway to the rear lot. It appears to the Town's Peer-review Engineer the proposed additions to the travel way are limited and will not alter existing stormwater runoff, and therefore does not require specific evaluation. The proposed development conforms to Title 16.8.8 Surface Drainage.
Conclusion: The Board finds this standard has been met
Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining
L. Erosion Controlled.
<i>The proposed development will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.</i>
Finding: The plans have been reviewed by the town's peer-review engineer, and the proposed construction is negligible and therefore does not pose erosion and/or sediment control impacts. It appears to conform to Title 16.8.8 Surface Drainage and will provide for adequate erosion and sediment control measures on site.
Conclusion: The Board finds this standard has been met with condition of approval #3

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Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining
M. Traffic Managed.
<i>The proposed development will:</i>
<ol style="list-style-type: none"> 1. <i>Not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed; and</i> 2. <i>Provide adequate traffic circulation, both on-site and off-site.</i>
Finding: The proposed development will not increase the current traffic demand and the site currently provides adequate access and will conform to town standards with consideration of condition of approval #9 and granted waivers and modifications
Conclusion: The Board finds this standard has been met.
Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining
N. Water and Air Pollution Minimized.
<i>The proposed development will not result in undue water or air pollution. In making this determination, the following must be considered:</i>
<ol style="list-style-type: none"> 1. <i>Elevation of the land above sea level and its relation to the floodplains;</i> 2. <i>Nature of soils and sub-soils and their ability to adequately support waste disposal;</i> 3. <i>Slope of the land and its effect on effluents;</i> 4. <i>Availability of streams for disposal of effluents;</i> 5. <i>Applicable state and local health and water resource rules and regulations; and</i> 6. <i>Safe transportation, disposal and storage of hazardous materials.</i>
1. The development is located outside of a Flood Hazard Area. 2 thru 6. Not applicable to the proposed development.
Finding: It does not appear the proposed development will result in undue water or air pollution Conclusion: The Board finds this standard has been met.
Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining

216

O. Aesthetic, Cultural and Natural Values Protected.
<i>The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.</i>
Finding: Cutts Road is classified as a category two scenic road in the 1999 update of the Kittery Comprehensive Plan, however, the proposed development does not significantly change the existing character of the corridor.

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<p>The property does not include any significant historic, wildlife habitat or physical or visual access to the shoreline that require protection.</p> <p>Conclusion: This requirement appears to be met.</p>
<p>Vote of <u>6</u> in favor <u>0</u> against <u>1</u> abstaining Mr. Harris abstaining</p>
<p>P. Developer Financially and Technically Capable.</p>
<p><i>Developer is financially and technically capable to meet the standards of this section.</i></p>
<p>Finding: the proposed development is limited in nature and appears to be within the capabilities of the applicant.</p> <p>Conclusion: The Board finds this standard has been met.</p>
<p>Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>S. For a Right-of-Way Plan The proposed ROW</p> <ol style="list-style-type: none"> 1. Does not create any nonconforming lots or buildings; and 2. Could reasonably permit the right of passage for an automobile
<p>Finding: The proposed development does not appear to create or increase any nonconforming lots or buildings and complies with Title 16 standards with consideration of condition of approval #9 The proposed ROW is 50' wide (exceeding the 40' requirement) and can reasonably permit the passage for an automobile.</p> <p>Conclusion: The Board finds this standard has been met.</p>
<p>Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining</p>

217

**Chapter 16.8 – Design and Performance Standards – Build Environment
Article III. Street Signage**

<p>16.8.3.1 Names</p>
<p>Streets which join or are in alignment with streets of abutting or neighboring properties must bear the same name. Names of new streets may not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and are subject to the approval of the Planning Board.</p>
<p>Findings: The proposed street name, Olivia Way, is not duplicative or bear phonetic resemblance to any existing street names in Kittery.</p>
<p>Conclusion: The Board finds this standard has been met.</p>
<p>Vote of <u>7</u> in favor <u>0</u> against <u>0</u> abstaining</p>

NOW THEREFORE the Kittery Planning Board adopts each of the foregoing Findings of Fact and based on these Findings determines the proposed Development will have no significant detrimental impact, and the Kittery Planning Board hereby grants final approval for the Development at the above referenced property, including any waivers granted or conditions as noted.

218

Waivers/Modifications: (to be depicted on the final plan):

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1. Class 1 street design and construction standards (16.8.4 Table 1) with the exceptions:
 - a. ROW width
 - b. The approach/apron area adjacent to Cutts Road; area to include the first 25 feet from existing public street, with the apron width only 15 feet.
 - c. Modified turn-around as depicted on plan
2. Monuments - Section 16.8.2
 - a. Waiver to allow the road monuments to be iron pipes instead of stone monuments as a more cost effective boundary marker due to the size and scope of the project
3. Submission materials, Erosion and sedimentation control plan – Section 16.10.5.2.C.6
 - a. York County Soil and Water Conservation District review is not warranted Review completed by CMA Engineers.

Conditions of Approval (to be depicted on the final plan):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
2. The approved private street cannot be accepted by the Town as a public street
3. No more than the two existing principle dwelling units are allowed to use the approved private street ROW
4. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
5. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
6. The existing third dwelling unit needs to be approved by the Town Planner or Code Enforcement Officer as an accessory dwelling unit.
7. All Notices to Applicant contained in the Findings of Fact (dated: June 9, 2016).

Conditions of Approval (Not to be depicted on the final plan):

8. Final plan must be recorded with the York County Registry of Deeds
9. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board, or Peer Review Engineer, and submit for Staff review prior to presentation of final Mylar, including:
 - a. Revise plan to reflect actual edge of pavement and surface currently used for dwelling closest to Cutts Road;
 - b. Add street name to plan to read: 'Olivia Way'
 - c. Add abutter information for properties across the street per 16.10.7.2.T.1.d.

219 Notices to Applicant: (not to be depicted on the final plan)

220

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- 221 1. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with review,
222 including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter
223 notification.
- 224 2. State law requires all subdivision and shoreland development plans, and any plans receiving waivers or
225 variances, be recorded at the York County Registry of Deeds within 90 days of the final approval.
- 226 3. One (1) mylar copy and one (1) paper copy of the final plan (recorded plan if applicable) and any and all
227 related state/federal permits or legal documents that may be required, must be submitted to the Town
228 Planning Department. Date of Planning Board approval shall be included on the final plan in the Signature
229 Block.
- 230 4. The owner and/or developer, in an amount and form acceptable to the town manager, must file with the
231 municipal treasurer an instrument to cover the cost of all infrastructure and right-of-way improvements and
232 site erosion and stormwater stabilization, including inspection fees for same.
- 233 5. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer,
234 incorporating the Plan and supporting documentation, the Findings of Fact, and any Conditions of
235 Approval.
236

The Planning Board authorizes the Planning Board Chairperson to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval.

237
238 **Vote of 7 in favor 0 against 0 abstaining**
239

240 APPROVED BY THE KITTERY PLANNING BOARD ON June 9, 2016
241

242
243
244 _____
245 Ann Grinnell, Planning Board Chair

Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

246
247 **ITEM 6 – Beatrice Way –Major Subdivision; Final Plan Review**

248 Action: Accept or deny plan application, schedule a public hearing. Owner Operation Blessing LP, and
249 applicant Richard Sparkowich, propose a five-lot subdivision on remaining land from the previously
250 approved 3-lot subdivision located between Highpoint Circle and Kittree Lane (Tax Map 61 Lot 8), in the
251 Residential-rural (R-RL) Zone.
252

253 Mr. Markley provided a brief history of the plan for a proposed 5-lot subdivision. He mentioned that the
254 Planning Board agreed a municipal impact analysis waiver was not necessary. He raised certain issues to each
255 draft preliminary plan conditions of approval which included the following statements:

- 256 1. The open space is going to be adjusted to include the necessary acreage.
257 2. A stonewall closure on either ends of Old Woods Road will be addressed.
258 3. Boundary lines were verified and the standard bounding survey was submitted.
259 4. The road acceptance is not part of the subdivision. Mr. Di Matteo added that the Board would need to
260 make a recommendation to Town Council at the next meeting.
261 5. The net residential acreage and density calculations were included on the subdivision plan. Ms.

**TOWN OF KITTERY, ME
PLANNING BOARD MEETING
Council Chambers**

**UNAPPROVED
JUNE 9, 2016**

- 262 Kalmar asked to further review the term 'net residential acreage' since the ordinance was changed.
263
264 6. Wetlands area were located and very minimal change is proposed.
265 7. A note to state 'driveways no longer than 500 feet serving a maximum of two dwellings are permitted'
266 was included. Also, the cul-de-sac shape is unconventional and subject to CMA review. Some
267 members of the Board accepted an unconventional shape and others preferred to have CMA's
268 opinion before accepting an unconventional shape. Mr. Markley illustrated the overall intent is for the
269 driveway to cross the stream with a 500-foot limit. Further deliberations occurred regarding the
270 impact on the stream with an unconventional cul-de-sac. Mr. Di Matteo cited a letter from CMA. The
271 Board continued to discuss the interpretations of CMA recommendations to alter the shape of the cul-
272 de-sac to avoid impact on the stream. Mr. Dunkelberger interpreted the CMA review to include no
273 indications of negative impacts on the stream with an unconventional shape. Ms. Driscoll-Davis
274 questioned the deed to Lot D.
275 8. Maintenance of storm water structures has been added to the Common Roadway Agreement. Ms.
276 Kalmar explained several concerns of agricultural impacts on the vernal pools and adjacent
277 properties. She requested the deeded restrictions be a no-cut and no disturb area, which the
278 owner/applicant received favorably. Ms. Earledean Wells expressed concerns for potential paving and
279 the Board and Mr. Markley responded with explanations showing minimal risk of paving. The Board
280 agreed that once all the documents are received, they will at that time decide whether to consult with
281 the Town Attorney.

282 Next forward action items were discussed amongst the Board, Mr. Di Matteo, and Mr. Markley.

283
284 **Ms. Kalmar made a motion to continue the final plan application for Beatrice Way – Major Subdivision**
285 **for Owner Operation Blessing LP not to exceed 90 days.**

286 **Mr. Dunkelberger seconded.**

287 **Motion passed 6-0-1.**

288
289 **ITEM 7 – Board Member Items / Discussion – None.**

290
291 **ITEM 8 – Town Planner Items:**

- 292
293 A. The next Comprehensive Plan 2015-2025 Public Forum will be held on June 11, 2016 at 10:00-
294 12:30pm at the STAR Theatre Kittery Community Center, 120 Rogers Road, Kittery.

295
296 **Mr. Alesse moved to adjourn.**

297 **Mr. Dunkelberger seconded.**

298 **Motion carried 7-0-0.**

299
300 The Kittery Planning Board meeting of June 9, 2016 adjourned at 8:11 p.m.

301
302 Submitted by Marissa Day, Minutes Recorder, on June 30, 2016.

303
304 *Disclaimer: The following minutes constitute the author's understanding of the meeting. Whilst every effort*
305 *has been made to ensure the accuracy of the information the minutes are not intended as a verbatim*
306 *transcript of comments at the meeting, but a summary of the discussion and actions that took place. For*
307 *complete details, please refer to the video of the meeting on the Town of Kittery website at*
308 <http://www.townhallstreams.com/locations/kittery-maine>.