

**Town of Kittery Maine
 Town Planning Board Meeting
 June 9, 2016**

17 Island Ave – Shoreland Development Plan Review

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

PROJECT TRACKING

REQ'D	DESCRIPTION	COMMENTS	STATUS
NO	Sketch Plan		NA
NO	Site Walk	At the Board's discretion	
YES	Determination of Completeness	Scheduled for 6/9	PENDING
NO	Public Hearing	At the Board's discretion	
Yes	Final Plan Review and Decision	Feasible for 6/9	

Plan Review Notes reflect comments and recommendations regarding applicability of Town Land Use Development Code, and standard planning and development practices. Only the PB makes final decisions on code compliance and approves, approves with conditions or denies final plans. Prior to the signing of the approved Plan any Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and recorded at the York County Registry of Deeds. **PLACE THE MAP AND LOT NUMBER IN 1/4": HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.** As per Section 16.4.4.13 – Grading/Construction Final Plan Required. – Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.

Background

Planning Board review of this project is required by 16.10.3.2 Other Development Review, because it is located in the Shoreland Overlay Zone. The parcel includes two nonconforming single-family dwellings on a nonconforming lot. The lot does not meet the minimum lot size or minimum land area per dwelling unit for the Residential – Urban zone. In addition, both dwelling units are within the 100-foot required setback from a protected resource, Piscataqua River.

The applicant proposes to demolish the dwelling unit located closest to Piscataqua River and reconstruct and expand within the 30% nonconforming structure expansion thresholds.

Staff Review

1. The plan does not depict the location of the 100-foot setback boundary line. Staff estimates the 100-foot setback line is approximately the middle of the principal dwelling, depicted as house B on the Shoreland Development Plan (Sheet A1, prepared 5/16/2016).
2. The proposed development is to demolish the existing cabin, depicted as house A on the Shoreland Development Plan, and rebuild in an expanded footprint. A nonconforming structure, located less than the required setback from a water body in the Shoreland

Overlay Zone, that is “removed, damaged or destroyed” by more than 50% of the market value may be reconstructed, so long as the reconstruction is in compliance with the waterbody setback requirements to the “greatest practical extent”, as determined by the Planning Board (Title 16.7.3.5.6). Although the proposed reconstruction does not comply with mandatory waterbody setback requirements, it does not appear there is a location that would encroach less on the required 100-foot or yard setback.

3. The total lot size is 11,326 square feet. However, the area of land below the normal high-water line of a water body is not included when determining total lot area. The total lot area, as depicted on the standard boundary survey, submitted by the applicant and prepared by Great Hill Survey Company, is 10,100 square feet. Existing and proposed devegetated area and building coverage percentages are determined with total lot area, 10,100 s.f., rather than total lot size, 11,326 s.f.
4. As of January 1, 1989, an expansion of a nonconforming structure located within the required setback from a protected waterbody is restricted to a lifetime limit of no more than 30% in floor area and volume. The proposed development is the first expansion for this structure, therefore, the existing dimensions are equivalent to the recorded dimensions for January 1, 1989.
 - a. The existing gross floor area submitted by the applicant is 559 square feet. The proposed floor area is 708 square feet. This is an increase of 26.7%.
 - b. The existing gross volume submitted by the applicant is 3,913 cubic feet. The proposed volume is 5,067 cubic feet. This is an increase of 29.5%.The applicant needs to provide a diagram that supports floor area and volume calculations.
5. The proposed floor area and increase in floor area, listed as 727 s.f. and 165 s.f, respectively, do not match the dimensions of the proposed development as depicted on the plan. Staff spoke with applicant who verified the proposed floor area on the plan should read 708 s.f. (dwelling - 510 s.f.; deck - 198 s.f.), with a total increase of 149 s.f. The applicant stated the existing floor area as well as the existing, proposed and percentage increase of volume, as depicted on the plan, is correct.
6. The permitted devegetated area in the Residential-Urban and Shoreland Overlay Zone is 20%. The lot currently exceeds this maximum. In order to avoid an increase in nonconformity, the applicant proposes revegetating the existing ramp and asphalt paths, approximately 200 s.f., to offset the increase in devegetated area caused by the proposed development.
7. The maximum building coverage for the Residential-Urban Zone is 20%. The proposed development creates a building coverage of 16% and conforms to this standard.
8. The side setback is 15-feet in the Residential-Urban Zone. Side setbacks are not depicted on the submitted boundary survey or sketch site plan, however it appears the existing deck may encroach on the Easterly side setback. The proposed development, as drawn, creates a greater encroachment on this setback. The applicant must revise plans to depict an expansion that does increase non-conformity by limiting any side setback encroachment to be no further than what already exists.

9. Staff recommends the following revisions to the final plan
 - a. Revise amounts and calculations related to floor area, existing and proposed devegetated area and existing and proposed building coverage calculations.
 - b. Include an existing and proposed devegetated area table
 - i. Table should be itemized by structures, decks, ramp, asphalt to show proposed offset in devegetated area
 - c. Remove “As the property already exceeds the existing lot coverage allowance of 20%...” as the devegetated area offset will be reflected in the devegetated area table.
 - d. Depict the area to be revegetated in the Site Plan Sketch drawing
 - e. Clearly depict footprint of existing conditions
 - f. Include all front and side property setbacks, as well as the 100-foot setback as measured from the Highest Annual Tide line.
 - g. Remove any development that encroaches in the side setback further than what is existing
 - h. Remove photographs of existing conditions and color from plan as it will need to be reproduced in black & white coloring
 - i. Include space and dimensional standards for Residential-Rural Zone
 - j. Include Locus Map to show property in relation to surrounding roads, within two thousand feet of any property line of the development
 - k. Title block in the lower right corner containing:
 - i. Name(s) and address(es) of the applicant and owner
 - ii. Plan title (ex: “Shoreland Development Plan”)
 - iii. Date of the plan preparation/revision, and unique ID number for the plan and revisions
 - l. Map and Lot number in ¼” high letters at the lower right border of plan sheet
 - m. Plan must be embossed, sealed or both, with the seal of an architect, professional engineer or registered land surveyor

Recommendations

With the recommended revisions, the application appears to be complete and meets the standards and requirements of Title 16. Staff recommends the Board first accept the application (suggested motion below).

Move to accept the Shoreland Development Plan application dated May 19, 2016 from owner and applicant Shelley Wieler for 17 Island Ave (Tax Map 1 Lot 8) in the Residential-Rural and Shoreland Overlay Zones.

The board should determine whether a public hearing or site walk is warranted. If a public hearing is not warranted, the Board may move to approve with conditions (suggested motion provided below) and proceed to reading and voting on the Findings of Fact.

Move to approve with conditions the Shoreland Development Plan application dated May 19, 2016 from owner and applicant Shelley Wieler for 17 Island Ave (Tax Map 1 Lot 8) in the Residential-Rural and Shoreland Overlay Zones, upon the review and voting, in the affirmative, on the Findings of Fact.

Kittery Planning Board

UNAPPROVED

**Findings of Fact
For 17 Island Ave
Shoreland Development Plan Review**

WHEREAS: Shelley Wieler requests consideration of plans to demolish and expand an existing single-family dwelling, located within the 100-foot setback from a protected water body. The site is located at 17 Island Ave (Tax Map 1 Lot 8) in the Residential-Urban (R-U) and Shoreland Overlay (SH-OZ-250') Zones, hereinafter the "Development" and

Pursuant to the Plan Review meetings conducted by the Town Planning Board as noted {in the plan review notes prepared for 6/9/2016}

Shoreland Development Plan Review	6/9/2016
Approval	6/9/2016

And pursuant to the application and plan and other documents considered to be a part of a plan review decision by the Planning Board in this Finding of Fact consisting of the following (hereinafter the "Plan"): {as noted in the plan review notes prepared for 6/9/2016}

1. Shoreland Development Plan Application, received 5/19/2016
2. Shoreland Development Plan, Port City Design, dated 5/19/2016
3. Standard Boundary Survey, Great Hill Survey Company, dated 7/15/1999

NOW THEREFORE, based on the entire record before the Planning Board and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings and conclusions:

FINDINGS OF FACT

Chapter 16.3 LAND USE ZONE REGULATIONS

16.3.2.17.D Shoreland Overlay Zone
<i>1.d The total footprints of the areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development, except in the following zones...</i>
<u>Findings:</u> The proposed development does not exceed twenty percent of the lot area.
<u>Conclusion:</u> The requirement is not applicable.
Vote: <u> </u> in favor <u> </u> against <u> </u> abstaining

Chapter 16.7 GENERAL DEVELOPMENT REQUIREMENTS

Article III Nonconformance

16.7.3.1 Prohibitions and Allowances

A. Except as otherwise provided in this Article, a nonconforming conditions must not be permitted to become more nonconforming

Finding: With consideration of Condition #5, the proposed development does not increase nonconformity of any structure or aspect of the lot.

Conclusion: The requirement appears to be met.

Vote: in favor against abstaining

16.7.3.6 Nonconforming Structures in Shoreland and Resource Protection Zones

16.7.3.6.1 Nonconforming Structure Expansion

A nonconforming structure may be added to, or expanded, after obtaining Planning Board approval and a permit from the Code Enforcement Officer. Such addition or expansion must not increase the non-conformity of the structure and must be in accordance with the subparagraphs [A through C] below.

A. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure will not be permitted to expand, as measured in floor area or volume, by thirty percent (30%) or more during the lifetime of the structure.

B. If a replacement structure conforms to the requirements of Section 16.7.3.6.1.A and is less than the required setback from a water body, tributary stream or wetland, the replacement structure will not be permitted to expand if the original structure existing on January 1, 1989, has been expanded by 30% in floor area and volume since that date.

C. Whenever a new, enlarged or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 16.7.3.5.2 – Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 16.7.3.5.3, above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it will not be considered to be an expansion of the structure.

Finding: The proposed development is the first expansion for this structure, therefore, the existing dimensions are equivalent to the recorded dimensions for January 1, 1989.

- a. The existing floor area is 559 square feet. The proposed floor area is 708 square feet. This is an increase of 26.7% and conforms to this standard.
- b. The existing volume is 3,913 cubic feet. The proposed volume is 5,067 cubic feet. This is an increase of 29.5% and conforms to this standard.

Conclusion: This requirement appears to be met.

Vote: in favor against abstaining

Article 10 Shoreland Development Review

16.10.10.2 Procedure for Administering Permits

D. An application will be approved or approved with conditions if the reviewing authority makes a positive finding based on the information presented. It must be demonstrated the proposed use will:

1. Maintain safe and healthful conditions;

Finding: The proposed development as represented in the plans and application does not appear to have an adverse impact.

Conclusion: This requirement appears to be met

Vote: ___ in favor ___ against ___ abstaining

2. Not result in water pollution, erosion or sedimentation to surface waters;

Finding: Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction to avoid impact on adjacent surface waters.

Conclusion: This requirement appears to be met

Vote: ___ in favor ___ against ___ abstaining

3. Adequately provide for the disposal of all wastewater;

Finding: The proposed development does not have an impact on the existing wastewater disposal system.

Conclusion: This requirement is not applicable.

Vote: ___ in favor ___ against ___ abstaining

4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

Finding: The proposed development does not appear to have an adverse impact.

Conclusion: This standard appears to be met.

Vote: ___ in favor ___ against ___ abstaining

5. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;

Finding: Shore cover is not adversely impacted

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

6. Protect archaeological and historic resources;

Finding: There does not appear to be any resources impacted.

<p>Conclusion: This requirement appears to be met.</p> <p style="text-align: right;">Vote: <u> </u> in favor <u> </u> against <u> </u> abstaining</p>
<p><i>7. Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;</i></p> <p>Finding: The property is not located in the Commercial Fisheries / Maritime Use Zone.</p> <p>Conclusion: This requirement is not applicable.</p> <p style="text-align: right;">Vote: <u> </u> in favor <u> </u> against <u> </u> abstaining</p>
<p><i>8. Avoid problems associated with floodplain development and use;</i></p> <p>Finding: The property is designated Zone C by FEMA Flood Zone standards and is defined as an area of minimal flood hazard. The proposed development does not appear to have an impact on a floodplain or flood-prone area.</p> <p>Conclusion: This requirement appears to be met.</p> <p style="text-align: right;">Vote: <u> </u> in favor <u> </u> against <u> </u> abstaining</p>
<p><i>9. Is in conformance with the provisions of this code;</i></p> <p>Finding: The proposed development complies with the zoning and design/performance standards of Title 16.</p> <p>Conclusion: This requirement appears to be met.</p> <p style="text-align: right;">Vote: <u> </u> in favor <u> </u> against <u> </u> abstaining</p>
<p><i>10. Be recorded with the York county Registry of Deeds.</i></p> <p>Finding: With consideration of condition # 5, a plan suitable for recording has been prepared.</p> <p>Conclusion: As stated in the Notices to Applicant contained herein, shoreland Development plans must be recorded with the York County Registry of Deeds prior to the issuance of a building permit.</p> <p style="text-align: right;">Vote: <u> </u> in favor <u> </u> against <u> </u> abstaining</p>

Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review standards for approval and, therefore, the Planning Board approves the Shoreland Development Plan Application and subject to any conditions or waivers, as follows:

Waivers: None

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

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)

2. 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.
3. No trees are to be removed without prior approval by the Code Enforcement Officer or the Shoreland Resource Officer. Efforts to protect existing trees must be in place prior to construction.
4. All Notices to Applicant contained herein (Findings of Fact dated 6/9/2016).

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

5. 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 on final Mylar.

The Planning Board authorizes the Planning Board Chair to sign the Final Plan and the Findings of Fact upon confirmation of required plan changes.

Vote of ___ in favor ___ against ___ abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON June 9, 2016

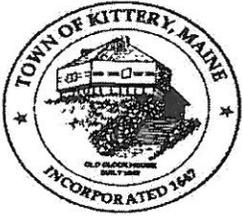
Ann Grinnell, Planning Board Chair

Notices to Applicant:

1. Incorporate any plan revisions on the final plan as required by Planning Board and submit for Staff review prior to presentation of final mylar.
2. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with the permitting, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
3. One (1) mylar copy of the final plan and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department for signing. Date of Planning Board approval shall be included on the final plan in the Signature Block. After the signed plan is recorded with the York County Registry of Deeds, a mylar copy of the signed original must be submitted to the Town Planning Department.
4. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating as elements the Development Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

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.

SHORELAND DEVELOPMENT PLAN APPLICATION



TOWN OF KITTEERY
Planning & Development Department
 200 Rogers Road, Kittery, ME 03904
 Telephone: 207-475-1323 Fax: 207-439-6806

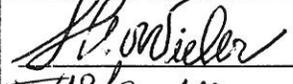
MAP ___ LOT ___
DATE: _____
FEE: \$ 200.00
ASA*: _____

PROPERTY DESCRIPTION	Physical Address	17 Island Ave Kittery		
	Base Zone	RU	Overlay Zone (s)	OZL - SL250
OWNER INFORMATION	Name	17 Island Ave LLC		Mailing Address 62 Adams St. Medway, MA 02053
	Phone	508-254-2955		
	Email	shelleywieler@gmail		
AGENT INFORMATION	Name	Dong Greene		Company PORT CITY DESIGN
	Phone	603-812-1707		
	Email	rdgreene.43@gmail		Mailing Address 953 Islington St. 23F Portsmouth NH 03801
	Fax			
APPLICANT INFORMATION	Name	Dong Greene		Mailing Address
	Phone			
	Email			

PROJECT DESCRIPTION	<u>Existing Use:</u>	residential
	<u>Proposed Use (describe in detail):</u>	residential

PROJECT DESCRIPTION	Please describe any construction constraints (wetlands, shoreland overlay zone, flood plain, non-conformance, etc.)
	The existing buildings & lot are existing non conforming the owner would like to renovate & expand the existing cabin which lies within 100' of normal high waterline.

I certify I have provided, to the best of my knowledge, information requested for this application that is true and correct and I will not deviate from the Plan submitted without notifying the Planning and Development Department of any changes.

Applicant's Signature:		Owner's Signature:	
Date:	5/19/2010	Date:	5/19/2010

*Applicant Service Accounts: Fees to pay other direct costs necessary to complete the application process, not including application fees. Title 3, Chapter 3.3.

MINIMUM PLAN SUBMITTAL REQUIREMENTS

15 Copies of this Application Form, all supporting documents, and the Development Plan and Vicinity Map
12 plan copies may be half-size (11"x17") and 3 must be full-size (24"x36")

Shoreland Development Plan format and content:

- A) Paper Size; no less than 11" X 17" or greater than 24" X 36"
- B) Plan Scale
 - Under 10 acres: no greater than 1" = 30'
 - 10 + acres: 1" = 50'
- C) Title Block
 - Title: Shoreland Development Plan
 - Applicant's name and address
 - Name of preparer of plan with professional information
 - Parcel's Kittery tax map identification (map – lot) in bottom right corner
 - Vicinity Map or aerial photo showing geographic features 5,000 feet around the site.**
- D) Signature Block
 - Area for signature by Planning Board Chair and Date of Planning Board Approval

Development Plan must include the following existing and proposed information:

<p>Existing:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Land Use Zones and boundaries <input checked="" type="checkbox"/> Topographic map (optional) <input checked="" type="checkbox"/> Wetlands and flood plains <input checked="" type="checkbox"/> Water bodies and water courses <input checked="" type="checkbox"/> Parcel area <input checked="" type="checkbox"/> Lot dimensions <input checked="" type="checkbox"/> Utilities (Sewer/septic, water, electric, phone) <input checked="" type="checkbox"/> Streets, driveways and rights-of-way <input checked="" type="checkbox"/> Structures <input checked="" type="checkbox"/> Distance from structure to water body and property lines <input checked="" type="checkbox"/> Floor area, volume, devegetated area, and building coverage 	<p>Proposed: (Plan must show the lightened existing topography under the proposed project plan for comparison.)</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Recreation areas and open space <input checked="" type="checkbox"/> Setback lines and building envelopes <input checked="" type="checkbox"/> Lot dimensions <input checked="" type="checkbox"/> Utilities (Sewer/septic, water, electric, phone) <input checked="" type="checkbox"/> Streets, driveways and rights-of-way <input checked="" type="checkbox"/> Structures <input checked="" type="checkbox"/> Floor area, volume, devegetated area, and building coverage <p>Distance to:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Nearest driveways and intersections <input checked="" type="checkbox"/> Nearest fire hydrant <input checked="" type="checkbox"/> Nearest significant water body; ocean, wetland, stream
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AN APPLICATION THE TOWN PLANNER DEEMS SUFFICIENTLY LACKING IN CONTENT WILL NOT BE SCHEDULED FOR PLANNING BOARD REVIEW.

Expansion/Construction Analysis within the Shoreland Overlay Zone¹
(see Table 16.9)

Size of water body or wetland: <500 sf <501 sf-1 acre >1 acre

Structure distance from water body: 26' feet

STRUCTURE	Existing	Proposed	% Increase*	
SF (Area)	559 sf	724 sf	29.5 %	
CF (Volume)	3913 cf	5087 cf	29.5 %	
Construction:	New: <input type="checkbox"/> Demo/Rebuild: <input checked="" type="checkbox"/> Maintenance/repair: <input type="checkbox"/>			Value: \$ 40,000
*Total increase in area and/or volume may not exceed 30% for any new construction since 1/1/1989.				

PARCEL DE-VEGETATION	% Allowed*	Existing SF	Proposed SF	% Proposed*
Lot Size (sf) 11,326	20 %	2865 sf	2965 sf	26 %
*See underlying zone standards for de-vegetated area percent allowed within a Shoreland Overlay.				

BUILDING COVERAGE	% Allowed*	Existing SF	Proposed SF	% Proposed*
Lot Size (sf) 11,326	20 %	1500 sf	1368 sf	14 %
*See underlying zone standards for building coverage percent allowed.				

¹Calculations for area, volume, and de-vegetated areas must be included on the final plan and certified by a State of Maine registered architect, landscape architect, engineer, or land surveyor.

NOTES:

1. DEED REFERENCES:

- a. Albert F. and Margaret M. Woodward to Albert F. and Margaret M. Woodward dated July 7, 1983 and recorded at the York County Registry of Deeds Book 3119 Page 47 (Lot 4 & portion of Lot 5).
- b. Helen A. Snell to Albert F. and Margaret M. Woodward dated August 24, 1992 and recorded at the York County Registry of Deeds Book 2973 Page 5 (portion of Lot 5).
- c. Mary K. Manning to Margaret M. Woodward dated March 16, 1963 and recorded at the York County Registry of Deeds Book 1542 Page 473 (Lot 4).
- d. Elizabeth F. Flynn to Moses Booska dated July 3, 1945 and recorded at the York County Registry of Deeds Book 1051 Page 418 (Lot 4).
- e. Nina R. Johnson to Gerald F. and Annis O'Brien dated June 14, 1944 and recorded at the York County Registry of Deeds Book 1017 Page 219 (portion of Lot 5).
- f. Ernest R. and Nellie M. Turling to Nina R. Johnson dated May 16, 1944 and recorded at the York County Registry of Deeds Book 1021 Page 307 (Lot 5).
- g. Elizabeth F. Flynn to Ernest R. and Nellie M. Turling dated June 22, 1943 and recorded at the York County Registry of Deeds Book 1003 Page 185 (Lot 5).
- h. William E. Dunning et. als. to Ralph B. Flynn dated April 23, 1935 and recorded at the York County Registry of Deeds Book 893 Page 159.
- i. John Pierce to Patrick Gallagher dated June 8, 1886 and recorded at the York County Registry of Deeds Book 409 Page 325 (2.5 acres).
- j. Sarah Ann Willey (widow of Benning) to George H. Hayes dated April 13, 1858 and recorded at the York County Registry of Deeds Book 258 page 217 (see note 5).
- k. Ephraim Otis (Administrator of Benning Willey Estate) to George H. Hayes dated April 13, 1858 and recorded at the York County Registry of Deeds Book 258 Page 221 (includes Lot 8 of Plan Reference 2a).
- l. Samuel Hanscom to Benning Willey dated December 8, 1834 and recorded at the York County Registry of Deeds Book 150 Page 166 (division of lot - see Deed Reference 1a).
- m. Stephen Hanscom (Guardian of John Willey Heirs) to Zebulon Willey dated August 5, 1834 and recorded at the York County Registry of Deeds Book 148 Page 246 (1.5 acre lot).
- n. Stephen Willey to Zebulon Willey dated February 26, 1831 and recorded at the York County Registry of Deeds Book 139 Page 241 (conveys 1/4 interest).
- o. Elizabeth Langdon Elwyn (heir of Governor John Langdon) to Zebulon, Stephen and John Willey dated May 13, 1825 and recorded at the York County Registry of Deeds Book 119 Page 92.

OUTSALES

- p. John Pierce to Mary J. Fletcher dated June 10, 1870 and recorded at the York County Registry of Deeds Book 320 Page 72 (includes easement for well, see note 9c).
- q. Samuel Hanscom to Benjamin W. Bailey dated December 8, 1834 and recorded at the York County Registry of Deeds Book 150 Page 140 (division of lot, see Deed Reference 1l).
- r. Elizabeth F. Flynn to Rene A. and Dora V. Trudeau dated June 22, 1943 and recorded at the York County Registry of Deeds Book 1000 Page 203 (Lot 3, see note 9b).
- s. Nina R. Johnson to Mildred A. Gerry dated January 29, 1945 and recorded at the York County Registry of Deeds Book 1020 Page 37 (conveys to Lot 6).
- t. Ralph B. and Elizabeth F. Flynn to Henrietta A. and Albert J. Mallet dated August 20, 1940 and recorded at the York County Registry of Deeds Book 952 Page 47.
- u. Elizabeth F. Witham (heir of Elizabeth F. Flynn F-85-149) to Frances C. McMahon and Elizabeth F. Witham dated December 31, 1956 and recorded at the York County Registry of Deeds Book 1341 Page 441 (Lot 6).
- v. Albert F. and Margaret M. Woodward to The Inhabitants of the Town of Kittery dated December 1, 1988 and recorded at the York County Registry of Deeds Book 5016 Page 284 (sewer easement - see Note 9).
- w. Ralph B. Flynn to John J. Hoadley dated November 15, 1937 and recorded at the York County Registry of Deeds Book 916 Page 206 (re-locate sideline and establish common right of way).

2. PLAN REFERENCES:

- a. "Plan of Willey's Land in Kittery" dated 1858 surveyed by Timothy Dame and recorded at the York County Office of Probate in Volume 1 Page 2 (See docket #20460 for written description).
- b. "Plan Showing New Division of Property Lines and a Right of Way in Common Between Properties of Ralph B. Flynn and John J. Hoadley" dated September 24, 1937 surveyed by Albert Moulton, Jr. and recorded at the York County Registry of Deeds Plan Book 12 Page 34.
- c. "Plan of Land of Mrs. Ralph B. Flynn" dated May 1943 surveyed by John W. Durgin and recorded at the York County Registry of Deeds Plan Book 17 Page 14.
- d. "Sketch Showing Topography and Property Lines of Property of Harry V. McNeill" dated October 4, 1962 surveyed by Moulton Engineering Co., Inc. This plan is unrecorded and is on file at Anderson-Livingston Engineers York, Me.
- e. "Standard Boundary Survey Sewer Easement Badger's Island Sewer" dated October 15, 1988 surveyed by Titcomb Associates and recorded at the York County Registry of Deeds Plan Book 189 Page 28.
- f. "Plan of Survey for Warren A. and Mayme L. Harvey" dated December 10, 1959 surveyed by Wright-Pierce and recorded at the York County Registry of Deeds Plan Book 27 Page 72.
- g. "Plan of Land for David W. and Patricia D. Newson" dated January 15, 1988 surveyed by Frank Emery and recorded at the York County Registry of Deeds Plan Book 164 Page 32.

3. FIELD NOTES:

- a. See original field notes dated May 11, 1943 surveyed by John W. Durgin and numbered "2395". These notes are on file at James Yerra & Associates Portsmouth, NH.
- b. See original field notes dated August 18, 1937 surveyed by Albert Moulton and numbered "FB 39". These notes are on file at Anderson-Livingston Engineers York, ME.
- c. See original field notes dated July 17, 1962 surveyed by Albert Moulton and numbered "FB K-5". These notes are on file at Anderson-Livingston Engineers York, ME.

4. MAGNETIC BASIS:

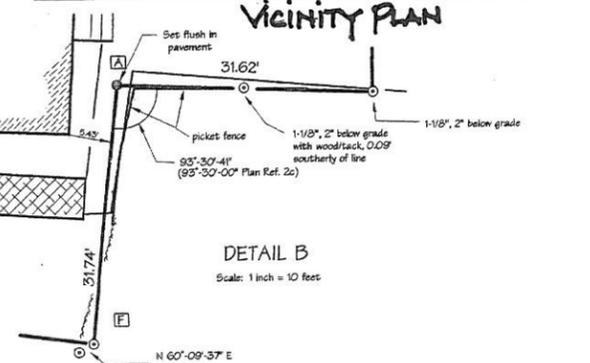
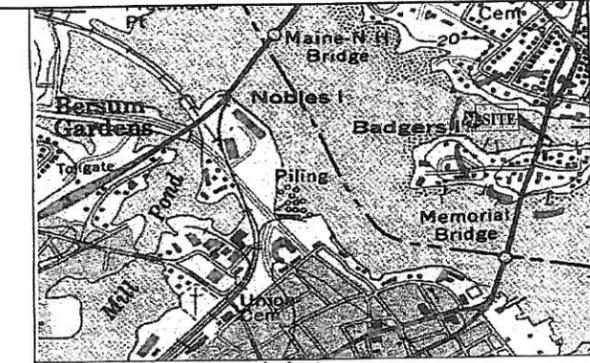
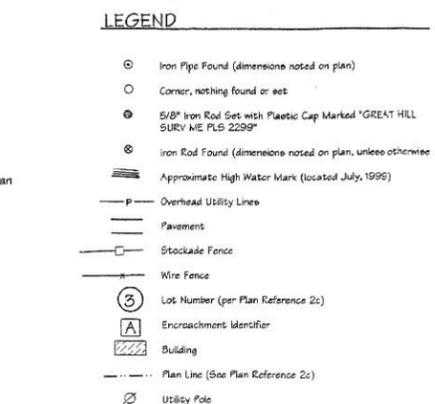
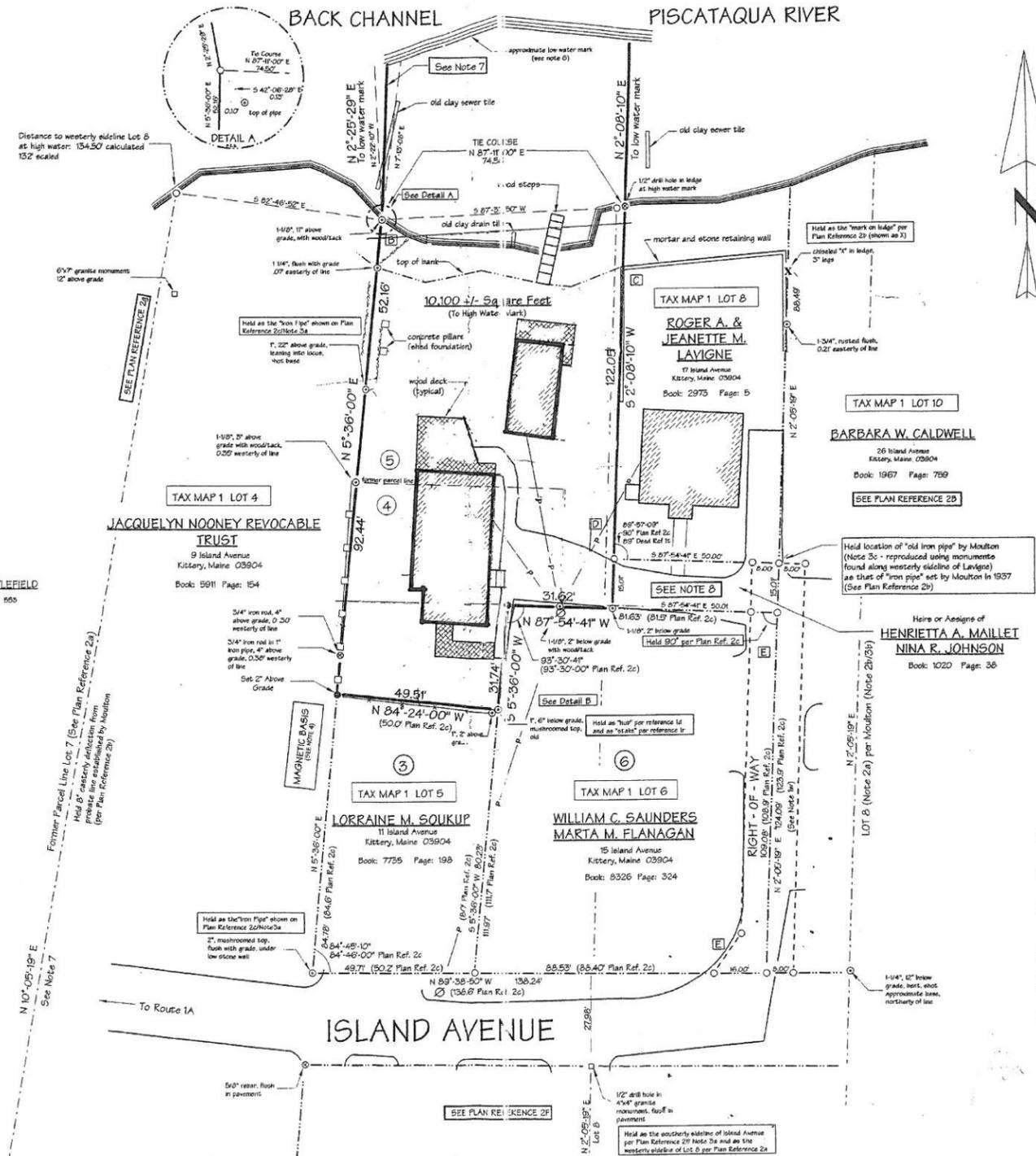
The bearings shown hereon refer to the Geodetic (True) Meridian per Reference 2c and Note 3a. To reproduce this meridian, a straight course was held from the iron pipe found at the southwest corner of land of Lorraine M. Soukup and the base of a 1 inch iron pipe found near the approximate mid-point of the westerly sideline of the surveyed premises.

5. The double cemetery shown on Plan Reference 2a was not visibly apparent during the course of this survey. Deed Reference 1j (later Flynn) conveys a parcel of land "with the exception of the Burying Ground which is reserved". The reservation was made by Sarah Ann Willey (widow of Benning Willey) and did not describe a physical width or location, but was made the same year as the Dame Survey. By scaling the location of this cemetery from the house (shown southerly of Island Avenue and shown on Dame Survey) and from the location of the westerly line of Probate Lot 8 (as reproduced by Moulton in 1937 per Plan Reference 2b) it appears that it may lie within, or directly adjacent to, the surveyed premises.

6. The location of the low water mark shown on this plan is approximate and is intended only to relate it to that of high water (the distance between high and low water does not exceed 100 rods). The physical location of the low and high water mark may change over time ("meandering boundary").

7. The original probate division lines surveyed by Dame in 1858 and shown on this plan are included for the sole purpose of establishing intersection points at the high water mark to accomplish a "colonial division" of the area between high and low water based on operative deeds 1j and 1k. These lines are based on the best available evidence (local), but may be subject to interpretation following a more detailed reconstruction of the Dame survey.

8. The underlying fee interest in the 15' x 50' right-of-way appears to reside with Henrietta Mallet, Nina R. Johnson or their successors in title. Reference is made to a deed from Mildred A. Gerry to Mallet/Johnson in Book 1020 Page 37 (includes strip) and from Mallet/Johnson to Lavigne in Book 1041 Page 39 (excludes strip). See also Deed Reference 1e of locus chain. No written record was found that transferred the fee to Woodward (note deed reference 1v).



NOTES:

- 9. EASEMENTS/ENCROACHMENTS:
 - a. The surveyed premises is subject to a sewer easement granted to the owners of Lot 3 per Deed Reference 1r. This runs from Lot 3 to the river, and was not located by this survey.
 - b. The surveyed premises benefits from a "water pipe line" easement across Lot 3 per Deed Reference 1r. Old water lines run from Island Avenue, across the easterly portion of Lot 3, to the house on the surveyed premises and also serve Lavigne (per the owner). The location of these lines were not located by this survey.
 - c. See Deed Reference 1p which grants "the right to draw and use water from the well". No well was noted within the surveyed premises during the course of this survey. It is probable that this easement is southerly of Island Avenue near the existing, older dwellings shown on Plan Reference 2a, but cannot be confirmed by the written description.
 - d. The surveyed premises benefits from an Ingress/Egress easement to Island Avenue across land of Saunders/Flanagan, Caldwell and heirs or assigns of Mallet/Johnson. See Plan Reference 2b, 2c and Deed Reference 1d.
- A A portion of the paved walkway leading to the wheelchair access ramp on the surveyed premises encroaches onto land of Saunders/Flanagan. No written record was found which allows for this use.
- B Yard debris dumped over the edge of the bank by Noony (or predecessors) encroaches onto the surveyed premises. No written record was found which allows for this use.
- C The mortar and stone retaining wall built by Lavigne (or predecessors) encroaches onto the surveyed premises. This encroachment was noted by Moulton (see Note 3c) in 1962 and by Durgin (see Note 3a and original file) in 1943. No written record was found which allows for this use.
- D No written record was found which allows for the overhead utility lines accessing, or crossing, the surveyed premises.
- E Portions of the paved, common driveway leading to the surveyed premises from Island Avenue encroach onto land of others. No written record was found which allows for this use.
- F Portions of the flower garden, kept by Saunders/Flanagan, encroach onto the surveyed premises. No written record was found which allows for this use.

PLAN SHOWING A STANDARD BOUNDARY SURVEY FOR
ALBERT F. & MARGARET M. WOODWARD

OF PROPERTY LOCATED ON
BADGER'S ISLAND KITTERY, MAINE
SCALE: 1 INCH = 20 FEET JULY 15, 1999
PREPARED BY

GREAT HILL SURVEY COMPANY
147 Thurrell Road South Berwick, Maine
Ph: 207-676-8648 Fx: 207-676-5884
email: greathill@psouth.net

GRAPHIC SCALE: 1 INCH = 20 FEET
Survey File: Woodward.zak Cadd File: Woodward.dwg GHSC JOB #: 12-01-B

I hereby certify that this Standard Boundary Survey conforms to the Maine Board of Licensure for Professional Land Surveyors, Category 1 (Standard Boundary Survey), Condition 1 (see noted exceptions):
- no written description
- monumentation not set at all angle points
James J. Bacon
James J. Bacon Professional Land Surveyor 2299



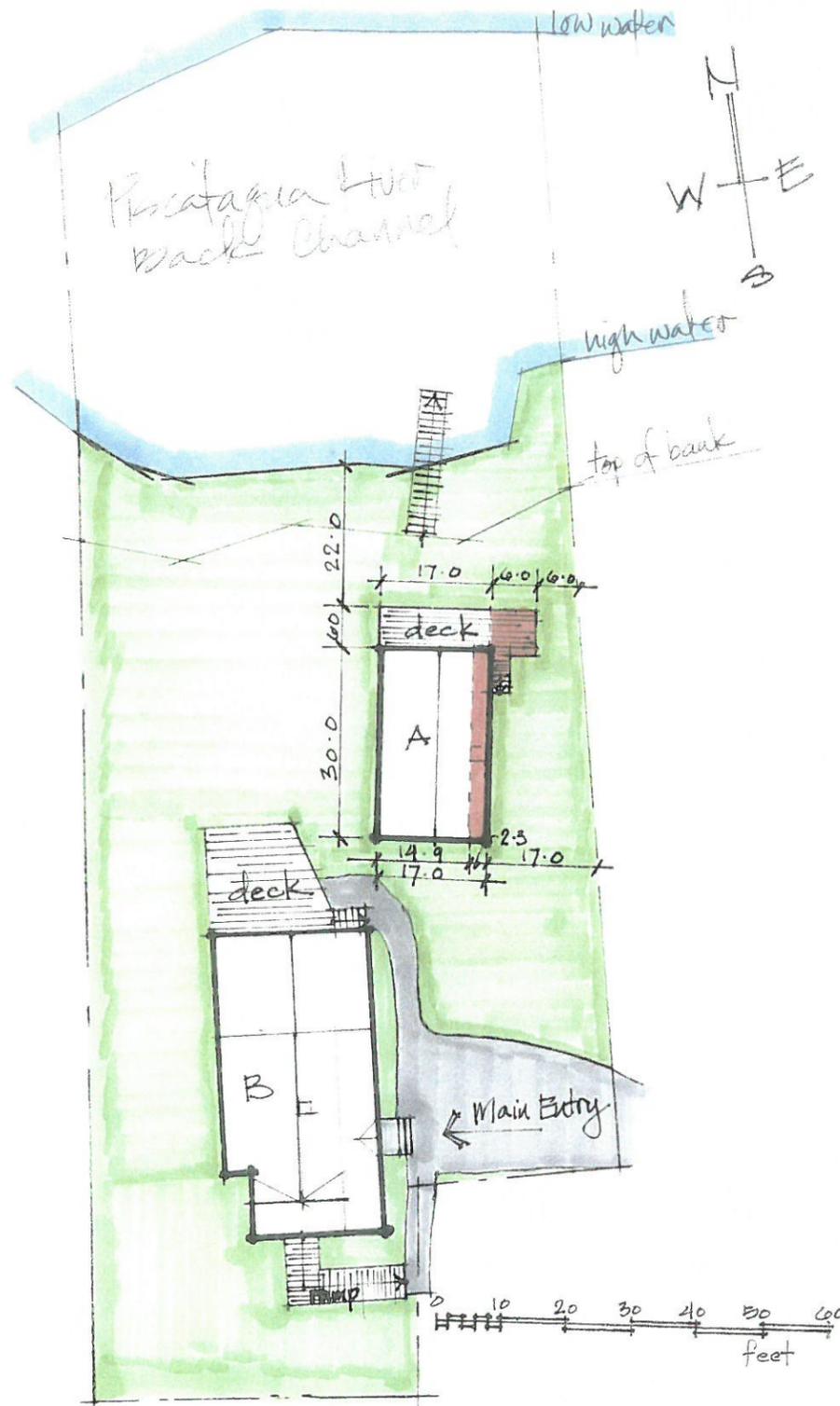
Existing - View SE to Cabin



Existing - View NW to Cabin



Existing - View N between lots



Site Plan Sketch

A - Existing cabin & deck to be rebuilt
 B - Existing house & deck
 (Cabin & deck expansion shown shaded)

Project Summary:

Existing Property:

This is an existing non-conforming lot of record in the urban residential section of Badgers Island that lies within the shoreland overlay zone. The property has two structures each with their own deck: the main house & the cabin closer to the water

The property owner would like to expand the cabin in width and volume as permitted by code. The intent is to demolish the wood frame and leave the existing foundation. They would also like to expand the deck in width & area as permitted by code.

The new structure would be a wood frame cabin with a gable roof similar to the existing & in keeping with the island Maine aesthetic.

Calculations of Existing and for Expansion:

Existing cabin 14-9 x 29-7 = 437 s.f.
 Existing deck 6 x 17-9 + 3 x 7 = 122 s.f.
 Total Existing Footprint/Area = 559 s.f.
 Total Existing Volume = 3,913 c.f.
 29.5% increase to Area = 165 s.f.
 29.5% increase to Volume = 1,154 c.f.
 Proposed Footprint/Area = 727 s.f.
 Proposed Volume = 5,067 c.f.

Existing Lot Area = 11,326 s.f.
 Existing devegetated (buildings, decks & asphalt) = 2,865 s.f. (25%)
 Existing building coverage (buildings only) = (437 + 1,064) = 1,501 s.f. (13%)
 Proposed devegetated = 2,965 s.f. (26%)
 Proposed building coverage = 1,569 s.f. (14%)

As the property already exceeds the existing lot coverage allowance of 20% we propose to offset the additional 1% devegetated by removing the existing asphalt paths and/or ramp as required.

Applicant: PORT CITY DESIGN/Doug Greene
Preparer: PORT CITY DESIGN/Doug Greene
Signature Block for Planning Board Chair
Name & Date

PORT CITY DESIGN

architecture
 planning
 interiors

603.312.1707
 953 Islington Street
 Portsmouth, NH
 03801

Client - Project:

17 Island Ave. LLC

Cabin Renovations

17 Island Ave.
 Kittery, Maine 03904

Dwg. Index:

A1 Shoreland Development Plan
 w/ Site Sketch of Proposed
 Existing Site Survey dated 1999

2016-5-19 prepared