

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

APPROVED
Thursday, December 18, 2008

Meeting called to order at 6:15 p.m.

Members Present: Russell White, Megan Kline, Michael Luekens, Joseph Carleton
Members absent: Ernest Evancic, Douglas Muir, D. Scott Mangiafico
Staff: Sandra Mowery, Town Planner was absent

Minutes: November 20, 2008

Mr. Carleton moved to approve the minutes with changes

Ms. Kline seconded

Motion carries unanimously by all members present

PUBLIC COMMENT – There was no public comment.

ITEM 1 - Planning Board Election of Officers for 2009

Mr. Carleton nominated D. Scott Mangiafico to serve as Vice-chairman

Mr. White seconded

Mr. Luekens suggested that the nominees should be present if elected

Mr. Carleton withdrew his nomination. Following further discussion regarding the need for members to be present for election as officers, members agreed to proceed with elections.

Mr. Carleton renewed his nomination of D. Scott Mangiafico to serve as Vice-chairman

Mr. White seconded

Nomination carries unanimously by all members present

Mr. Carleton nominated **Russell White** to serve as Chairman

Ms. Kline seconded

Nomination carries unanimously by all members present

Ms. Kline nominated Michael Luekens to serve as Secretary

Mr. Carleton seconded

Nomination carries unanimously by all members present

ITEM 2 - Lot Line Adjustment – *Public Hearing/Discussion with Action* - Ann Grinnell, Applicant and Owner of a parcel of land situated at 481 Haley Road, Map 41 Lot 6A, proposes to acquire ±3,795 square feet of land area from an abutting parcel of land situated at 395 Haley Road, Map 41 Lot 7-1; also being known as a lot within the record subdivision known as Bartlett Farm Subdivision, William R. & Frances M. Holly, Owners; the proposed land area being situated in the Rural Residential (**RR**) District. The owner/agent for the land exchange is Ann Grinnell.

Mr. White asked if there were any members present to speak for or against this item. There were none.

Mr. Carleton read the Findings of Fact:

WHEREAS Ann Grinnell and Marjorie Pelletier, the Owner's of a parcel of land situated at 381 Haley Road, Map 41 Lot 6A will acquire 3,479 square feet of land area from the abutting parcel of land situated at 395 Haley Road, Map 41 Lot 7-1; also being known as a lot within the recorded subdivision known as Bartlett Farm Subdivision. Owners of Map 41 Lot 7-1 are William R. & Frances M. Holly.

WHEREAS a Sketch Plan Review was conducted on November 13, 2008.

WHEREAS the Application was Determined Complete on November 13, 2008.

WHEREAS a Public Hearing was conducted on December 18, 2008

WHEREAS a Final Approval was granted on December 18, 2008

The 3,479 square feet of land area is situated in the Rural Residential (RR) District. Record Plans and other documents considered to be a part of the approval by the Planning Board consist of the following:

- An Authorization Letter, dated November 12, 2008, granting Ann Grinnell permission to act as agent for the application, signed by William and Frances Holly, on November 13, 2008
- A map entitled 'Conveyance of Land Plan', prepared by Anderson Livingston Engineers. Inc, dated November 12, 2008,
- A legal description entitled 'Parcel to Be Conveyed, prepared by Anderson Livingston Engineers, Inc.,
- A Warranty Deed for Map 41 Lot 6A, recorded as doc # 2004042345, on 07/13/2004 in the York County Registry of Deeds,
- A Warranty Deed for Map 41 Lot 7-1, recorded as Book 2843 Page 289, in the York County Registry of Deeds.

NOW THEREFORE, based on the entire record before the Board and pursuant to the applicable standards set out in the Land Use and Development Code Zoning Ordinance, the Board makes the following factual findings as required by Sec. **16.36.070.C**.

Findings of Fact

1. a. through h., j through cc. and 2. a. through c.

- These standards do not apply.

Vote of 4 in favor 0 against

Section 16.36.070.C.1.:

i. **Conformity with Local Ordinances and Plans.** The proposed development conforms to a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

[**Board members** concurred that the record plans and documents list need not be read into the minutes as they had all been previously reviewed by the Board.]

Vote of 4 in favor 0 against

NOW THEREFORE the Kittery Planning Board has in its Findings of Fact determined that the proposed project will have no significant detrimental impact, and the Kittery Planning Board hereby resolves to grant **Ann Grinnell** approval to **perform a lot line adjustment** at the above reference property contingent upon the following conditions:

Conditions of Approval

1. This approval by the Planning Board is an agreement between the Town and the Owners of Map 41 Lot 6A and Map 41 Lot 7-1, incorporating as elements the Owner's application and the Board's Findings of Fact including such conditions as the board may impose herein.

2. Prior to the issuance of any building permits, for Lot 6A and or Lot 7-1, Ann Grinnell must submit copies of the recorded map and deeds to the Town Planner.
3. That portion of the existing historical stone wall that will, subsequent to this approval, be situated wholly within Map 41 Lot 6-A is to remain undisturbed.
4. Signing of this instrument by the Planning Board constitutes approval. A period of one year shall be set forth for the guaranty time within which recordation of the deeds and map must be completed.
5. The Code Enforcement Officer shall issue no building permits until all conditions of this agreement have been satisfied.
6. By vote of the Planning Board herein, the Chairman is authorized to sign the Final Plan and this Findings of Fact on behalf of the Planning Board.

Vote of 4 in favor 0 against

Chairman White reminded the applicant that the plan mylar must include the conditions of approval as read and his signature prior to recording at the York County Registry of Deeds, and that a copy of the recorded plan must be returned to the Town Planner for filing.

ITEM 3 - Roadway Acceptance –Recommendation of Acceptance/Discussion with Action –

Walter Woods, President of York Building and Design Center, Inc., the Applicant, has submitted a *Petition for Acceptance of a Public Street*. The private way known as Hill Creek Drive extends approximately 535 linear feet off the southerly right-of-way line of Lewis Road to the center of a cul-de-sac, providing access to fourteen dwelling units, on Map 61 Lot 19A1 through Lot 19A14, in the Rural Residential (**RR**) District. The owner/agent is Walter Woods.

Mr. White asked if there were any members present to speak for or against this item. There were none.

Board members reviewed the *Petition* noting that signatures of roadway abutters had been recorded and petition requirements had been met.

Ms. Kline questioned the benefit to the Town by taking over the care and maintenance of the right-of-way such as an access way. **Mr. White** noted that one benefit is that once the road is built according to plans and specifications, the residents have a well-built road, and pay taxes for town services. **Mr. Carleton** noted that some communities require that subdivisions retain the road as a private road to be maintained by the homeowner's association. **Mr. White** stated that the ordinance does not provide much guidance to the Planning Board regarding policy decisions, but rather this is a multi-step process to reach a recommendation and the Council then decides whether or not to accept the road. The Board does not have the budgetary knowledge to make the decision to accept or reject. **Mr. Carleton** stated that the Board simply determines that the applicant has followed all the necessary steps and passes it along to Council to make a policy decision.

Earldean Wells noted that this is the road where all the abutters below complained that the water was running onto their property and should the Board's consideration be to make sure that they re-direct the water? **Mr. White** said he believed that the problem with water had to do with some lots that had been approved 5-6 years ago. **Earldean Wells** further stated that if the Town accepts the road and the water problems have not been resolved, the Town would then be responsible. **Mr. Carleton** noted that Rick Rossiter had signed off that the road is acceptable. **Ms. Kline** stated that

only the abutters on the right-of-way were included in the petition. **Mr. White** asked if the Board would prefer to table this item until there was a full Board representation.

Mr. Carleton moved to table this item

Mr. White seconded

Motion carries unanimously

Chairman White asked to discuss concerns by Councilor Gary Beers regarding the wetlands ordinance. It is anticipated that a meeting would be held to review Mr. Beers' issues with the ordinance and a second meeting to look at the meatier issues; then the ordinance would go to Council without coming back to the Board. The Planning Board members who will participate in meetings with Councilor Beers are Russell White, Megan Kline, and Doug Muir (and any other interested members) and suggested that the first meeting be held between Christmas and the New Year on Monday, 12/29 or Tuesday, 12/30 at 3:00 pm at Town Hall.

ITEM 4 - Amendment to Title 16 Land Use and Development Code Zoning Ordinance – Workshop – Shoreland Zoning –The mandatory Shoreland Zoning Act (Act), 38 M.R.S.A. Section 435-449 and the guidelines for the Board of Environmental Protection (Board) require municipalities to adopt shoreland zoning ordinances consistent with, or no less stringent than, the minimum guidelines set forth in the Act and by the Board. The Town administration, endeavoring to incorporate State recommendations for the Shoreland Zoning ordinance proposes to amend *Section 16.08.20 – Definitions, General Development Requirements - Article III. Nonconformance and Section 16.32.490 – Shoreland Zoning.*

It was suggested that this item be reviewed when there is a full slate of members present as well as the Planner who can provide her expertise and knowledge to the discussion. Members agreed. In the interest of furthering review, **Mr. Luekens** recommended that Board members come prepared to discuss page 8 (from “non-conformance”) to page 21 (up to the “Minimum Lot Standards” table) at the January 8, 2009 Planning Board meeting. Members present agreed with the recommendation.

PLANNERS TIME – There were no items.

Mr. Carleton moved to adjourn

Ms. Kline seconded

Motion carries unanimously

The Planning Board meeting of December 18, 2008 adjourned at 7:30 pm

Submitted by Jan Fisk, Recorder, December 22, 2008