

1 **TOWN OF KITTERY**
2 **PLANNING BOARD MEETING**
3 **Council Chambers**

APPROVED
Thursday, March 26, 2009

4
5 Meeting called to order at 6: p.m.

6
7 Members Present: Russell White, Ernest Evancic, Michael Luekens, Joseph Carleton,
8 Douglas Muir, D. Scott Mangiafico
9 Members absent: Megan Kline
10 Staff: Sandra Mowery, Town Planner
11 Kittery Conservation Commission: Earldean Wells

12
13 **Minutes: March 12, 2009**

14 **Mr. Luekens moved** to accept the minutes as amended

15 **Mr. Muir** seconded

16 **Motion carries unanimously**

17
18 At the March 12, 2009 Board meeting, the **Board** agreed to read a Findings of Fact for
19 approval at the next scheduled meeting for the following item: **Amendment to an Approved**
20 **Subdivision – Lot Line Adjustment –Public Hearing/Discussion with Action** – John Watts,
21 Owner, proposes a lot line adjustment between lots known as Map 41 Lot 5-A and Map 41 Lot
22 5-2, situated in the Rural Residential (**RR**) zoning district at the northeasterly corner of Haley
23 Road and Janah Lane. Map 41 Lot 5-2 also being situated in the Janah Lane Subdivision.
24 Owner and Applicant are the same.

25
26 **Chairman White** read the Findings of Fact and Conditions of Approval. The Board voted as
27 follows:

28
29 **Section 16.36.070.C.1:**

30 **i. Conformity with Local Ordinances and Plans.**

31 Vote of 6 in favor 0 against 0 abstaining

32
33 **Conditions of Approval**

- 34 1. This approval by the Planning Board is an agreement between the Town and the owners of Map 41
35 Lot 5-A and Map 41 Lot 5-2, incorporating as elements the owner's application and the Board's
36 *Conditions of Approval* including such conditions as the Board may impose herein.
- 37 2. Prior to the Town's acceptance of this exchange of land, Jonathan Watts must submit the following
38 to the Town Planner:
- 39 a. The *Conditions of Approval* included on a mylar copy of the recorded map;
40 b. A copy of the recorded deeds including a maintenance agreement regarding the grass area along
41 Janah Lane that will become part of Susan Mason's property.
- 42 3. Signing of this instrument by the Planning Board constitutes approval. A period of one year shall
43 be set forth for the guaranty time within which recordation of the deeds and map must be
44 completed.
- 45 4. The Code Enforcement Officer shall issue no building permits until all conditions of this agreement
46 have been satisfied.
- 47 5. By vote of the Planning Board herein, the Chairman is authorized to sign the Final Plan and this
48 Findings of Fact on behalf of the Planning Board.

49
50 Vote of 6 in favor 0 against 0 abstaining

52 **PUBLIC COMMENT** – There was discussion regarding site walks with Board members,
53 consultants and the public, the number of members required to hold a site walk, and general
54 discussion regarding Roberts Rules of Order.

55
56 Members broke into a workshop to discuss the following amendment.

57
58 **ITEM 1 - Amendment to Title 16 Land Use and Development Code Zoning Ordinance –**
59 **Workshop – Shoreland Zoning** – The mandatory Shoreland Zoning Act (Act), 38 M.R.S.A.
60 Section 435-449 and the guidelines for the Board of Environmental Protection require
61 municipalities to adopt shoreland zoning ordinances consistent with, or no less stringent than, the
62 minimum guidelines set forth in the Act and by the Board of Environmental Protection. The
63 Town administration, endeavoring to incorporate State recommendations for the Shoreland
64 Zoning ordinance proposes the following:

65
66 Amendment to Chapter 16.04 -General
67 Amendment to Section 16.08.20 – Definitions,
68 Amendment to Chapter 16.16 – Administration and Enforcement
69 Amendment to Chapter 16.24 – Special Exceptions and Variances
70 Amendment to Chapter 16.28 – General Development Requirements
71 Delete Section 16.32.490 –Shoreland Zoning, and
72 Add Chapter 16.34 – Shoreland Zoning
73

74 The Town Planner summarized the format of the draft amendment and the draft codified version of
75 the amendment. Each member had previously reviewed separate sections of the amendment for
76 comment, and the Planner edited some of those sections because of the particularly confusing or
77 detailed nature of those sections.

78 The Board discussed the appellate process as proposed by the State version of the Shoreland Zone
79 amendment. The Town’s attorney advised that Superior Court jurisdiction is more restrictive than the
80 proposed appellate process, so the State’s version will not be included in the proposed amendment.
81 Recommended edits will be incorporated into the codified version. Additional topics reviewed
82 included:

83 Timber Harvesting and Clear Cutting: Members discussed the difference between Board review of
84 developments where clearing can be controlled (such as subdivisions) versus construction of an
85 individual house or commercial timber harvesting, and how to monitor and enforce the new ordinance
86 language. Members discussed the clearance of vegetation inland from the normal high water line as
87 proposed by the state (75 feet) and the existing Kittery ordinance (100 feet).

88 Definitions: Proposed shoreland zoning definitions that may differ from existing Kittery ordinance
89 definitions should be clearly identified.

90 Appeals: While under appeal, access to private property (excluding interiors) by ZBA members,
91 without prior notice, was discussed.

92 Wastewater Systems: Installation or expansion of subsurface wastewater systems and related
93 variance language was reviewed.

94 Nonconforming Structures: Discussion of expansions “no closer than” existing structures within the
95 shoreland zone.

96
97 Members briefly reviewed the codified version for grammar, content and sentence structure.
98 The Planner summarized items that require additional review prior to the next workshop:

- 99 1. Shoreland zone sections from Mr. Mangiafico’s subcommittee;
100 2. Definitions that the town’s attorney is reviewing;

101 3. Beginning on page 8 (skipping the definitions section), each member could review their
102 assigned sections in depth and, if desired, review the remaining ordinance sections.

103

104 **PLANNER'S TIME** – No items were presented.

105

106 **Mr. Carleton moved** to adjourn

107 **Mr. White** seconded

108 **Motion carries unanimously**

109 The Planning Board meeting of March 26, 2009 adjourned at 8:45 p.m.

110 Submitted by Jan Fisk, Recorder, April 6, 2009