

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

APPROVED
Thursday, November 5, 2009

Meeting called to order at 6:07 p.m.

Board Members Present: Russell White, Joseph Carleton, Ernest Evancic, Michael Luekens, George Burke, Scott Lincoln

Members absent:

Staff: Gerry Mylroie, Town Planner

Introduction of new Planning Board Member, Scott A. Lincoln

Minutes: October 22, 2009 Planning Board Meeting

Mr. Carleton moved to accept the minutes as amended

Mr. Burke seconded

Motion carries, 6 in favor, 1 abstention (Lincoln)

PUBLIC COMMENT – There was no public comment.

ITEM 1 - Amendment to Title 16 Land Use and Development Code – Public Hearing and Discussion -

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. This amendment to Title 16 incorporates the most current State shoreland zoning ordinances into the Kittery Municipal Code. In working with the Town Council's Ordinance Review Committee to improve administrative efficiency, clarity and eliminate redundancy, re-formatting of the Planning Board's recommended amendments is proposed. Additionally some substantive changes are recommended to improve the working relationship between the Planning Board and Zoning Board of Appeals. Finally the Zoning Map must be amended consistent with the Planning Board's recommendation to the Council. Overall, incorporating State recommendations for the Shoreland Zoning including:

Amendment to Chapter 16.04 – General;

Amendment to Section 16.08.20 – Definitions;

Amendment to Chapter 16.16 – Administration and Enforcement;

Amendment to Chapter 16.24 – Special Exceptions and Variances;

Amendment to Chapter 16.28 – General Development Requirements;

Delete Section 16.32.490 – Shoreland Zoning; and

Amend previously recommended Chapter 16.34 – Shoreland Zoning.

The **Town Planner** informed the Board that approximately 600 notices of a public hearing were mailed to property owners within the proposed resource protection overlay. This public hearing will be held on November 19, 2009. A hearing for Council adoption is proposed to be held on December 14, 2009.

Debbie Marathon, RE Agent, was in attendance to observe on behalf of her client. As there were no members of the public present wishing to speak regarding this item, **Chairman White** opened and closed the Public Hearing at 6:24 p.m.

Changes made to the Zoning Map regarding the revised base zones and the overlay zones were reviewed and discussed. Board members noted that Fort Foster and land trusts on Gerrish Island are not identified as Conservation Zones on the map. The **Town Planner** stated that SMRPC recommended continued contact with the State regarding the shoreland overlay ordinance, but to be prepared for possible change orders by the DEP to be in compliance. The Council's Ordinance Review Committee will meet on November 23 for additional review in preparation for full Council review. Members reviewed the most recent amendment update of October 26, 2009.

Chairman White left the meeting at 6:56 p.m. to represent the Planning Board at the Port Authority meeting. The Town Planner will examine the following issues reviewed with the Board members:

1. Development of an additional item, GIS data layer, in Conservation protection (16.12.090.B.1.a).
2. Patios and decks within the shoreland overlay.
3. Coastal bluffs in Kittery.
4. Completion of the Commercial Fisheries/Marine Activities Overlay Zone.
5. Wetland setbacks in the RP zone.
6. Non-conformance language.

ITEM 2 – An Amendment to Title 16 Land Use and Development Code – Accessory Dwelling Units (ADU). Workshop: This amendment proposes to amend the accessory dwelling units definition in Section 16.08.020 and add a new Article for accessory dwelling units. Accessory dwelling units are a form of housing that contributes to the character and diversity of housing opportunities. The intent is to provide more affordable housing for family members at below average market rental rates within existing neighborhoods, to protect the character of the neighborhoods, and to respond to the Comprehensive Plan in regards to diversity in housing, as well as affordable housing.

Wil Peirce participated in the review of the ordinance amendment, stating he believed the definition is too restrictive, and it should be changed to allow any size unit that includes a kitchen. **Chairman White** stated he wished to complete the revision of this ordinance based on the charges made by Council, which is to make the ordinance, as adopted by referendum, a workable ordinance for the Town of Kittery. **Mr. Carleton** agreed, and stated that changing any existing ordinance definitions goes beyond the Board's responsibility in this matter. Following further discussion, Board members removed conflicting language and added language to clarify the use, and requested the Town Planner prepare the ordinance to move forward.

Mr. Luekens moved to schedule this item for a Public Hearing

Mr. Burke seconded

Motion carries unanimously

Planner's Time

The Town Planner presented language to amend Chapter 16.32.730, new Mobile Home setbacks. The amendment would allow the Code Enforcement Officer to administratively approve the placement of a new mobile home within a mobile home park, eliminating the need to have Zoning Board of Appeals review, specifically:

16.32.730.D.3. So as to avoid monotony and sameness, the Code Enforcement Officer may allow:

a. the front setback on a private road within a mobile home park to be varied provided ~~that~~ no home may be closer than ten (10) feet from the right-of-way and the average distance is at least twenty (20) feet for all units.

b. the replacement of a mobile home within a mobile home park may be located closer to a private road within the mobile home park than currently exists, provided it is located no closer to the front yard setback than the existing mobile home.

Mr. Carleton moved to schedule this item for a public hearing

Mr. Evancic seconded

Motion carries unanimously

The Town Planner provided a copy of the Planning Board By-Laws to members for inclusion in their new ordinance binders.

Mr. Luekens moved to adjourn
Mr. Carleton seconded
Motion carries unanimously

The Planning Board meeting of November 5, 2009 adjourned at 9:45 p.m.

Submitted by Jan Fisk, Recorder – November 9, 2009