

**APPROVED**

Town of Kittery  
Zoning Board of Appeals  
January 27, 2009

Call to Order: 7:03 pm

**Members present:** Vern Gardner, Chairman; Niles Pinkham, Thomas Battcock-Emerson, Bob Kaszynski, Brett Costa, Craig Wilson, Secretary

**Members absent:** Herb Kingsbury

**Staff:** Shelly Bishop, Code Enforcement Department

Pledge to the Flag

**PUBLIC HEARING**

**ITEM 1** - William Conda for B.J.P. Corporation requesting an Administrative Appeal to the terms of Title 16, Section 12, Subsection 130B (Page 256-G), and Title 16, Section 12, Subsection 130E9 (Page 256-M) of the Kittery Land Use and Development Code Zoning Ordinance in order to divide off a parcel to allow for a single family dwelling unit. Located at 450 U.S. Route 1, Kittery, Map 61 Lot 28, in the Mixed Use Zone.

Mr. Wilson stated that the applicant appeared before the Open Space Committee, of which he is a member, regarding tree growth and land swap and mentioned a single family house lot. Mr. Wilson stated that he cautioned the applicant at that meeting that perhaps the applicant's intention was not a permitted use. Mr. Wilson said it was not a pre-judgement, but a suggestion that the applicant look carefully at permitted uses in that zone. Mr. Kaszynski asked if Mr. Wilson could be unbiased in his review of the application and Mr. Wilson stated he believed he could. Chairman Gardner asked if any of the parties had any issues with Mr. Wilson remaining to review. There were none.

**Greg Orso**, representing the applicant, requested a brief recess to discuss the applicant's appeal with the Town's legal counsel, stating that the issue could be resolved without a hearing.

Board members decided to review the minutes during the recess period.

**Brett Costa** motioned to accept the minutes of November 27, 2008 as amended

Seconded by **Bob Kaszynski**

**Motion carries unanimously**

**Craig Wilson** motioned to accept the minutes of December 9, 2008 as amended

Seconded by **Niles Pinkham**

**Motion carries unanimously**

Mr. Orso returned to the meeting and stated that they had elected to withdraw the appeal and pursue other avenues.

**Niles Pinkham** motioned to adjourn

**Bob Kaszynski** seconded

**Motion carries unanimously**

**Chairman Gardner** adjourned the meeting at 7:30 p.m.

Bob Kaszynski stated he would not be present at the February meetings.  
Shelly Bishop announced that there will be no ZBA meeting on February 10, 2009, the next meeting will be held on February 24, 2009

Submitted by Jan Fisk, Recorder – February 2, 2009