

Draft Minutes
Joint Meeting of WIAC and WILSSA
Wednesday, May 7, 2014 6 PM
Kittery Town Hall Council Chambers

Attending:

WIAC – Kent Allyn, Duncan McEachern, Page Meade, Nancy Colbert Puff, Jeff Pelletier, Judy Spiller

WILLSSA: Sam Reid, Deane Rykerson, Larry Bussey

Other: Peter Sherr, Ransom Environmental; Heather Ross, Kittery CEO; , Arron Sturgis (Preservation Timber Framing)

1. **Status of Temporary Repairs** – Because the repairs are interior, including scaffolding and a rubber membrane roof, they do not require a permit. Any planking used to construct the staging will be removed, once the scaffolding is in place. No poison ivy will be removed. Insurances, etc. have been provided to the Town Manager, who has found them acceptable. All agreed that WILSSA may move ahead with those temporary interior repairs.
2. **Permitting for the overall project** – Because cost of repair/replacement, exceeds 50% of the value of the structure and given the structure location in a coastal flood plain so making it subject to flood plain management ordinance (found in Kittery Town Code, Title 15.3 – see attached), repair work would be considered a “substantial improvement” (15.3.2 Definitions). The building would have to be elevated as well as other improvements made (see 15.3.8 Development Standards) that would make repair cost prohibitive. Buildings on the historic register or designated as historic under state statute are exempt from flood plain restrictions (15.3.8 Definitions). The Maine State Historic Preservation Commission has rejected the lifesaving station for this designation several times. One work around would be for the Town to develop an ordinance exempting specific buildings deemed to be of special historic value. Once the ordinance was enacted WILSSA could apply for the designation. It would then gain exemption from the flood plain management restrictions. That process needs to begin with the Planning Board.
3. **Brownfields** – The application review appears to have been completed and notice of awards is likely in June with funds available 1 October. Ransom Environmental feels that the chances are good. Funds remain available for the years and can be extended beyond that point.

Title 15 Buildings and Construction

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B. **Late Permit Fee.** A person who starts construction without first obtaining a subsurface wastewater disposal permit must pay double the permit fee indicated in subsection A of this section.

Chapter 15.3 FLOODPLAIN MANAGEMENT

15.3.1 Statement of Purpose and Intent.

Certain areas of the Town are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this chapter.

It is the intent of the Town to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

This body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S. §3001-3007, 4352 and 4401-4407.

15.3.2 Definitions.

Unless specifically defined below, words and phrases used in this chapter have the same meaning as they have a common law and to give this chapter its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Adjacent grade means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of a shallow flooding means a designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in 15.12.030.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the one hundred (100) year flood.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.
Flood Insurance Study. See “Flood elevation study.”

Floodplain or Flood-prone area means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway. See “Regulatory floodway.”

Floodway encroachment lines means the lines marking the limits of floodways on federal, state and local floodplain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

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2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Locally established datum means, for purposes of this chapter, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where mean sea level is too far from a specific site to be practically used.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements described in Section 15.3.8.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

One Hundred (100) Year Flood. See "Base flood."

Regulatory floodway:

1. Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot; and
2. In riverine areas is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

15.3.2 Definitions

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Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area. See "Area of special flood hazard."

Start of construction means the date the building/regulated activity permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance means a grant of relief by a community from the terms of a floodplain management regulation.

Violation means the failure of a structure or development to comply with a community's floodplain management regulations.

from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Office of Community Development prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. Issue a two-part flood hazard development permit for elevated structures. Part I is to authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant must provide the Code Enforcement Officer with an application for Part II of the flood hazard development permit and include an elevation certificate completed by a registered Maine surveyor for compliance with the elevation requirements of subsections F, G, H and K of Section 15.3.8. Following review of the application, which review must take place within three working days of receipt of the application, the Code Enforcement Officer is to issue Part II of the flood hazard development permit. Part II authorizes the applicant to complete the construction project; and

G. Maintain, as a permanent record, copies of all flood hazard development permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 15.3.11; and copies of elevation certificates and certificates of compliance required under the provisions of Section 15.3.9.

15.3.8 Development Standards.

All developments in areas of special flood hazard are to meet the following applicable standards:

A. New construction or substantial improvement of any structure must:

1. Be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. Use construction materials that are resistant to flood damage;
3. Use construction methods and practices that will minimize flood damage; and
4. Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

B. All new and replacement water supply systems are to be designed to minimize or eliminate infiltration of flood waters into the systems.

C. All new and replacement sanitary sewage systems are to be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. On-site waste disposal systems are to be located and constructed to avoid impairment to them or contamination from them during floods.

E. All development is to be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.

F. New construction or substantial improvement of any residential structure located within:

1. Zones A1—30, AE and AH are to have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zones AO and AH are to have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.