

**CALL TO ORDER**

**ROLL CALL**

Present: John Perry, Member, Drew Fitch, Member, Steve Bellantone, Member, Russell White, Member, Ronald Ledgett, Member, Karen Kalmar, Vice Chair, and Dutch Dunkelberger, Chair

Absent: None

Staff: Bart McDonough, Town Planner

Advisory: Earldean Wells, Conservation Commission

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA-** None

**APPROVAL OF MINUTES-** None

**PUBLIC COMMENTS**

The public may attend the meeting in person or remotely via Zoom. Attendees via Zoom will be recognized during the public hearings and public comment portion of the meeting. Please note, the Town is testing its hybrid meeting technology. Every effort will be made to make this run smoothly, however some technical difficulties may occur as the Town implements this new approach. To register via Zoom:

[https://us02web.zoom.us/webinar/register/WN\\_Rcj4kiG4SRayzgXJDsCeyg](https://us02web.zoom.us/webinar/register/WN_Rcj4kiG4SRayzgXJDsCeyg)

Further, the public may submit public comments via email, US Mail, or by dropping written comments in the Drop Box outside the Town Hall entrance. Emailed comments should be sent to [bmcdonough@kitteryme.org](mailto:bmcdonough@kitteryme.org). Comments received by noon on the day of the meeting will become part of the public record and may be read in whole or in summary by the Planning Board Chair or Town Planner.

There being no comments, the Chair closed the public comments.

**ADMINISTRATIVE BUSINESS**

3:53

**ITEM 1—Approval of the 2022 Planning Board meeting schedule**

**Mr. Ledgett moved to accept the schedule as proposed. Seconded by Mr. Perry. The motion passed by roll call vote 7-0-0.**

5:53

**ITEM 2—Planning Board Member Reorganization (Election of Chair, Vice-Chair and Secretary)**

**Mr. Ledgett moved to hold the current positions: Chair Dunkelberger, Vice Chair Kalmar, Secretary Ledgett. Seconded by Mr. White. The motion passed by roll call vote 7-0-0.**

**OLD BUSINESS-**

7:53

**ITEM 3—134 Whipple Road—Shoreland Development Plan Review**

Action: Continue the to a subsequent meeting, or approve or deny plan: Pursuant to §16.10.3.2 *Shoreland Development Review* and Article III *Nonconformance* of §16.7 *General Development Requirements* of the Town of Kittery Land Use and Development Code, owners Nicolas and Amy Mercier and agent Altus Engineering, Inc. requests approval to reconstruct, relocate and expand a legally non-conforming structure on a legally non-conforming lot within the base zone setback of the Shoreland Overlay Zone located on real property with the address of 134 Whipple Road, Tax Map 10, Lot 6A, in the Residential-Urban (R-U) Zone and the Shoreland Overlay Zone (OZ-SL-250).

Chair Dunkelberger reported that the applicant had requested a continuance.

**Mr. Ledgett moved to continue the application until January 13, 2022. Seconded by Mr. White. The motion passed by roll call vote 7-0-0.**

9:30

**ITEM 4— 31 Water Street—Shoreland Development Plan Review**

Action: Continue application to a subsequent meeting, set public hearing (discretionary), or approve or deny application: Pursuant to 16.3 *Land Use Regulations*, §16.10.3.2 *Shoreland Development Review* and Article III *Nonconformance* of §16.7 *General Development Requirements* of the Town of Kittery Land Use and Development Code, owners John A. Brady and Lise B. Sequin and applicant / agent Tyler Jackson requests approval to replace and expand legally non-conforming structures on a legally non-

conforming lot within the base zone setback of the Shoreland Overlay Zone located on real property with the address of 31 Water Street, Tax Map 1, Lot 52, in the Residential-Urban (R-U) Zone and the Shoreland (OZ-SL-250), Resource Protection (OZ-RP) and Commercial Fisheries/Maritime Uses Overlay Zones.

Tyler Jackson thanked the Board for the site walk. He gave an update on the project, reviewing the changes to the plan.

The Board asked questions pertaining to non-conforming accessory structures and variances.

The Board discussed the need for a public hearing.

**Vice Chair Kalmar moved to hold a public hearing on January 13, 2022. Seconded by Mr. White. The motion passed by roll call vote 6-0-0. Chair Dunkelberger was absent for the vote due to technical difficulties.**

## **PUBLIC HEARING**

30:41

### **ITEM 5—523 US Route 1—Preliminary Site Plan Review**

Action: Continue public hearing to a subsequent meeting or approve or deny plan;

Pursuant to §16.3.2.13 *Mixed-Use*, §16.8 *Design and Performance Standards for Built Environment* and Article V *Preliminary Plan Application Review* of §16.10 *Development Plan Application* of the Town of Kittery Land Use and Development Code, the Planning Board shall hold a public hearing for a preliminary site plan application from applicant GSC Enterprises, LLC and agent Haley Ward, Inc. requesting preliminary approval to construct 1,010-sf coffee shop with a drive-through with appurtenant infrastructure and landscaping on real property with an address of 523 U.S. Route 1 (Tax Map 68, Lot 26) located in the Mixed-Use (MU) Zone.

Jon Whitten, Haley Ward, Inc. gave an overview of the project. He reviewed the updates to the plan. Mr. Whitten reviewed the written comments. Discussion continued on the entrance and exits on Route 1 or Parsons Lane. Concerns over the stormwater discussed. Requested waiver for high intensity soil survey discussed briefly.

Chair Dunkelberger opened the public hearing. There were no comments.

Earldean Wells asked questions regarding the landscape plan and the snow storage removal plan.

Chair Dunkelberger closed the public hearing.

Joseph Blommel gave an overview of the architecture. Roof pitch discussed briefly.

**Vice Chair Kalmar moved to approve the preliminary plan with the stated conditions. Seconded by Mr. Perry. The motion passed by roll call vote 7-0-0.**

The Board took a short break at 7:38 PM. The Board reconvened at 7:43 PM.

1:44:36

**ITEM 6— 52 State Road—Shoreland Development and Preliminary Site Plan Review**

Action: continue public hearing to a subsequent meeting, approve or deny plan:

Pursuant to §16.3 *Land Use Regulations*, Article III *Nonconformance* of §16.7 *General Development Requirements* and §16.10 *Development Plan Application* and review of the Town of Kittery Land Use and Development Code, owner/applicant Kevin Cambridge and agent Attar Engineering Inc. requests approval expand a legally nonconforming commercial structure and construct a 26 spaced parking lot with stormwater improvements lot on real property with an address of 52 State Road, (Tax Map 3, Lot 1) located in the Business-Local 1 (B-L1) Zone and the Shoreland Stream Protection Overlay Zone (OZ-SP-75).

Michael Sudak, Attar Engineering, Inc. gave an overview of the project. He reviewed the comments from the site walk. Mr. Sudak reviewed the comments from the Town briefly.

Chair Dunkelberger opened the public hearing. There were no comments from the public.

Board members commented on snow storage and landscaping, lighting, and sidewalks. Mr. Sudak addressed the questions. Discussion continued with Mr. McDonough on sidewalks.

Chair Dunkelberger closed the public hearing.

**Vice Chair Kalmar moved to approve the preliminary plan with the stated conditions. Seconded by Mr. White. The motion passed by roll call vote 7-0-0.**

2:05:24

**ITEM 7—Land Use and Development Code Amendments—Amendment to  
16.3.2.17.B.(10)(b) Special exception uses**

Action: Continue to subsequent meeting, make recommendation to Town Council.  
Pursuant to M.R.S.A Title 30-A, Chapter 187, §4352 and §16.1.9 *Amendments* of the Town of Kittery Land Use and Development Code, the Planning Board shall hold a public hearing for a proposed amendment to Title 16 filed by Ryan T. Ward that petitions to add the use of a Marijuana Retail Store to §16.3.2.17.B(10)(b) which would permit the use as a special exception within the Shoreland Overlay Zone (OZ-SL-250) of the Commercial 1 (C-1) zone district.

Sean Turley gave an overview of the amendment.

Chair Dunkelberger opened the public hearing. There were no public comments.

The Board commented on the Shoreland Overlay Zone, Town Council and Planning Board procedure. Discussion continued on change of use.

Chair Dunkelberger closed the public hearing.

**Mr. White moved to forward the amendment to Town Council with no specific recommendation from the Planning Board. Seconded by Vice Chair Kalmar. The motion passed by roll call vote 7-0-0.**

**NEW BUSINESS**

2:25:20

**ITEM 8—1-3 Badgers Island West—Shoreland Development Plan Review**

Action: Accept or deny application as complete; if accepted--continue application to a subsequent meeting, set public hearing and/or site walk (discretionary), or approve or deny application: Pursuant to §16.10.3.2 *Shoreland Development Review* and Article III *Nonconformance* of §16.7 *General Development Requirements* of the Town of Kittery Land Use and Development Code, owners One Badgers Island West, LLC, Elizabeth Casella & William J. Banfield, applicant Little Bridge Lobster LLC and agent Altus Engineering, Inc. requests approval for a special exception to change the use of an legally nonconforming structure to a restaurant and to make improvements thereto by reconstructing and expanding the footprint and height and to add 12 parking spaces with outdoor seating area on a legally non-conforming lot within the base zone setback of the Shoreland (OZ-SL-250), Resource Protection (OZ-RP) and Commercial

Fisheries/Maritime Activities (OZ-CFMU) Overlay Zones of the Mixed-Use Badgers Island (MU-BI) zoning district.

Eric Weinrieb, Altus Engineering, Inc. gave an overview of the project and reviewed the site plan.

William Banfield clarified the use for the maritime zone, and the parking details.

Zachary Smith gave an overview of the architecture.

Discussion on the appearance of the structure, outdoor dining areas, parking, and walking path ensued.

The flood zone was discussed by Mr. McDonough and the Board.

**Mr. White moved to accept the plan as presented as substantially complete. Seconded by Mr. Ledge. The motion passed by roll call vote 7-0-0.**

Dates were discussed for a site walk.

**Mr. White moved to hold a site walk on 12/28/2021 at 10 AM. Seconded by Mr. Ledge. The motion passed by roll call vote 7-0-0.**

**Vice Chair Kalmar moved to schedule a public hearing on 1/13/2022 at 6 PM. Seconded by Mr. Ledge. The motion passed by roll call vote 7-0-0.**

## **OTHER BUSINESS**

3:21:30

The Board and Mr. McDonough discussed the application load for upcoming meetings, and if there should be a limit.

3:35:56

### **ITEM 8 – Board Member Items/Discussion**

Chair Dunkelberger reminded the Board that they needed to complete the Freedom of Access training.

Chair Dunkelberger asked that the Board review their bylaws and rules at the second meeting in January.

3:39:24

### **ITEM 9 – Town Planner/Director of Planning & Development Items**

Mr. McDonough wished the Board a Happy Holidays.

3:39:49

### **Adjournment**

**Mr. Ledgett moved to adjourn. Seconded by Mr. White. The motion passed.**

The Kittery Planning Board meeting of December 9, 2021 adjourned at 9:37 p.m.

Submitted by Carrie Varao, Development Staff Clerk on May 3, 2022.

Disclaimer: The following minutes constitute the author's understanding of the meeting. Whilst every effort has been made to ensure the accuracy of the information, the minutes are not intended as a verbatim transcript of comments at the meeting, but a summary of the discussion and actions that took place. For complete details, please refer to the video of the meeting on the Town of Kittery website at <http://www.townhallstreams.com/locations/kittery-maine>.