

CALL TO ORDER

ROLL CALL

Present: Steve Bellantone, Member, Russell White, Member, Ronald Ledgett, Member, Dutch Dunkelberger, Chair and Karen Kalmar, Vice Chair joined at 6:08 PM

Absent: John Perry, Member, and Drew Fitch, Member

Staff: Bart McDonough, Town Planner, and Adam Causey, Director of Planning

Advisory: Earledean Wells, Conservation Commission

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

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_3yExhMCxS-2yUu-Ild0Wvg

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. 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.

Debbie Driscoll and Kate Johnston made a public comment.

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

OLD BUSINESS

5:53

ITEM 1—134 Whipple Road—Shoreland Development Plan Review

Action: Continue the agenda item 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).

Erik Saari, Altus Engineering, Inc. reviewed the plans and noted the changes.
Victoria Martel reviewed the landscape plan and answered a question regarding the sugar maple tree.

Mr. McDonough relayed DPWs opinion on the plan concerning the maintenance of the riprap.

Questions regarding the floor plan and the cupola were discussed. The Board requested legal opinion on the cupola.

Earldean Wells asked about the stormwater drains.

Nick Mercier made a comment regarding the process.

Mr. White moved to continue the application until December 9, 2021. Seconded by Mr. Ledgett. The motion passed by roll call vote 5-0-0.

PUBLIC HEARING

41:00

ITEM 2—Land Use and Development Code Amendments—Recodification of Title 16

Action: Continue public hearing to a subsequent meeting, recommend/not recommend 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 will hold a public hearing for a proposed amendment to Title 16 by reorganizing the tile while modifying certain provisions therein to align with the Town's Comprehensive Plan, or taking any other action relative thereto.

Mr. Causey reviewed the memo with the Board. The Board asked questions regarding the format.

Chair Dunkelberger opened the public hearing.

Earldean Wells asked about chicken coups abutting the eating area.
Public comments were heard from Debbie Driscoll and Kate Johnston.

Mr. Ledgett moved to close the public hearing. Seconded by Vice Chair Kalmar.
Mr. Bellantone asked how many public hearings were held on the item.
The motion passed by roll call vote 5-0-0.

Mr. White moved to recommend to Town Council with the requested changes.
Seconded by Mr. Ledgett. The motion passed by roll call vote 5-0-0.

1:34:47

ITEM 3—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.

Mr. McDonough told the Board that the applicant has requested more time. A traffic analysis plan has been submitted that will need to be reviewed by DOT and staff.

Vice Chair Kalmar moved to continue to December 9, 2021. Seconded by Mr. Ledgett. The motion passed by roll call vote 5-0-0.

1:37:17

ITEM 4— 35 Tilton Avenue—Medical Marijuana Registered Caregiver Home Establishment

Action: Continue public hearing to a subsequent meeting, schedule a site walk (discretionary), or approve or deny application.

Pursuant to §16.3.2.4 *Residential-Urban*, §16.8 *Design and Performance Standards for Built Environment* and §16.10.11 *Medical Marijuana Registered Caregiver Home Establishment* of the Town of Kittery Land Use and Development Code, the Planning Board shall review an application from applicant Delta Lab, LLC requesting approval to operate a Medical Registered Caregiver Home Establishment on real property with an address of 35 Tilton Ave. (Tax Map 16, Lot 178) located in the Residential-Urban (R-U) Zone.

Tammie Snow gave an update to the Board, including the odor plan and the lease. The site walk was discussed. Legal opinion on access to the site was requested.

Chair Dunkelberger opened the public hearing.

Public comments were heard from Mary Carey, 37 Tilton Avenue; Marj Fimple, 46 Tilton Avenue; Ray Slaughenhou, 40 Tilton Avenue; Lyn Rosoff, 61 Tilton Avenue; Kyle Bohunsky, 54 Tilton Avenue; and Shannon Hill, 8 Colonial Road.

Chair Dunkelberger read written comments into the record from Shaye Robbins, Katherine Ciak, David Leach, and Linda Patch.

Mr. McDonough read written comments into the record from Timothy Lawrence, Stephen Webber, Cheri Davis and Ron Bohunsky, Faith Easter, Joseph Paolini, Kevin Cambridge, Nancy Cambridge, and Janice Schenker.

Tammie Snow addressed some of the concerns from the public, noting: the business will be delivery only; the differences between medical caregiver business verses recreational business; state oversight; home occupation license; legally non-conforming buildings; Town Council's role in the ordinance; and odor plan specs.

Mr. McDonough read text comments from Zoom.

Public comments were heard from Mary Carey, Lyn Rosoff, and Ron Bohunsky.

Chair Dunkelberger closed the public hearing.

Chair Dunkelberger asked questions to staff regarding the application. Legal opinion was requested for several questions. Fire inspection and waste management questions asked. Discussion on who can access and inspect the property ensued briefly. The ventilation system mentioned and engineer review requested.

Mr. Ledgett moved to continue to January 27, 2022. Seconded by Mr. White. The motion passed by roll call vote 5-0-0.

The Board took a break at 8:54 PM and reconvened at 8:58 PM.

Chair Dunkelberger asked the Board if Item 9 could be addressed next, as "Old Business". The Board agreed.

OLD BUSINESS

2:57:10

ITEM 9— 89 Route 236—Final Site Plan Review

Action: Accept or deny application as complete, continue to a subsequent meeting, approve or deny final plan. Pursuant to *Commercial* (C-1, C-2, C-3), §16.8 *Design and Performance Standards for Built Environment* and Article VII *Final Plan Review and Decision* of §16.10 *Development Plan Application* of the Town of Kittery Land Use and Development Code, the Planning Board shall consider a final site plan application from applicant/owner JD Investment Inc. and agent Jones & Beach Engineers, Inc. requesting final approval to expand the existing parking lot by 11 spaces totaling 3,400-sf. of additional impervious surface with appurtenant stormwater infrastructure on real property with an address of 89 Route 236 (Tax Map 28, Lot 14-2) located in the Commercial-2 (C2) Zone.

Erik Poulin gave an overview and update of the plan. Mr. Poulin reviewed the changes, addressing prior comments from CMA.

The Board asked questions on the pre-treatment of the waste inside the restaurant and in the system.

Earldean Wells asked about the snow storage areas and landscaping in perpetuity.

Vice Chair Kalmar moved to approve the final plan. Seconded by Mr. Ledgett. The motion passed by roll call vote 5-0-0.

Vice Chair Kalmar read the findings of fact into the record. The Board moved to approve each finding, 5-0-0.

Vice Chair Kalmar read the conditions of approval into the record. The Board moved to approve by roll call vote 5-0-0.

NEW BUSINESS

3:22:46

ITEM 5—Land Use and Development Code Amendments—Amendment to 16.3.2.17.B.(10)(b) Special exception uses

Action: Continue to subsequent meeting, set public hearing. 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.

Mr. McDonough gave an overview of the Item to the Board.

Sean Turley gave an overview and a history of the amendment.
Discussion on Town Council's intent was asked of staff.

Vice Chair Kalmar moved to schedule a public hearing on 12/9/2021. Seconded by Mr. Ledgett. The motion passed by roll call vote 5-0-0.

3:32:30

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

Action: Accept application as complete; continue application to a subsequent meeting, set public hearing and site walk: 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).

Mr. McDonough gave an update to the Board, including the stream. Earledean Wells reported the stream has been on the maps since the 1800's, and there has been impact. It is of the opinion that it should remain classified a stream.

Michael Sudak, Attar Engineering, Inc. gave an overview of the project. He reviewed the site plans. The stormwater management plan was discussed. The outstanding items were reviewed briefly.
Parking counts discussed.

Mr. White moved to accept the application as complete. Seconded by Mr. Ledgett. The motion passed by roll call vote 5-0-0.

Vice Chair Kalmar moved to extend the meeting until 10:30 PM. Seconded by Mr. Ledgett. The motion passed by roll call vote 5-0-0.

The Board discussed dates for a site walk.

Vice Chair Kalmar moved to schedule a site walk on 11/30/2021 at 9 AM. Seconded by Mr. White. The motion passed by roll call vote 5-0-0.

Mr. White moved to schedule a public hearing on 12/9/2021 at 6 PM. Seconded by Vice Chair Kalmar. The motion passed by roll call vote 5-0-0.

4:00:36

ITEM 7— 31 Water Street—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 16.3 *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 gave an overview of the application.

The Board asked questions regarding the garage and the change of use, building heights, expansion of structures and setbacks, elevations and existing heights.

Vice Chair Kalmar moved to accept the plan. Seconded by Mr. Ledgett. The motion passed by roll call vote 5-0-0.

Site walk date discussed.

Vice Chair Kalmar moved to schedule a site walk on 11/30/2021 at 10 AM.

Seconded by Mr. White. The motion passed by roll call vote 5-0-0.

Mr. White moved to schedule a public hearing on 12/9/2021 at 6 PM. Seconded by Vice Chair Kalmar. The motion passed by roll call vote 5-0-0.

4:18:06

ITEM 8— 32 Mendum Ave—Shoreland Development Plan Review

Action: Accept or deny application as complete; continue application to a subsequent meeting, set public hearing and/or site walk (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 Daniel D. Sullivan and Michelle A. Sullivan and applicant / agent Steven Ellis requests approval to replace a legally nonconforming deck and patio in kind on a legally nonconforming lot within the base zone setback of the Shoreland Overlay Zone located on real property with the address of 32 Mendum Ave., Tax Map 3, Lot 50, in the Residential-Urban (R-U) Zone and the Shoreland (OZ-SL-250), Resource Protection (OZ-RP) Overlay Zones.

Mr. McDonough gave a brief overview, stating the application is for an in-kind replacement only. The Board discussed the need for more vegetation and a site walk.

Vice Chair Kalmar moved to accept the application. Seconded by Mr. White. The motion passed by roll call vote 5-0-0.

Vice Chair Kalmar moved to approve the plan with waivers. Seconded by Mr. White. The motion passed by roll call vote 4-1-0. Mr. Ledgett voted in the negative.

Mr. White moved to extend the meeting until 10:35 PM. Seconded by Mr. Bellantone. The motion passed by roll call vote 5-0-0.

Vice Chair Kalmar read the findings of fact into record. The Board moved to approve the findings 5-0-0.

Mr. White moved to extend the meeting five minutes. Seconded by Vice Chair Kalmar. The motion passed.

Vice Chair Kalmar read the conditions of approval into the record. The Board moved to approve by roll call vote 4-0-1. Mr. Ledgett abstained.

OTHER BUSINESS

ITEM 10 – Board Member Items/Discussion

ITEM 11 – Town Planner/Director of Planning & Development Items

4:34:11

Adjournment

Mr. White moved to adjourn. Seconded by Vice Chair Kalmar. The motion passed 5-0-0.

The Kittery Planning Board meeting of November 18, 2021 adjourned at 10:36 p.m.

Submitted by Carrie Varao, Development Staff Clerk on May 19, 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

**TOWN OF KITTERY, Maine
PLANNING BOARD MEETING
REMOTE**

APPROVED
NOVEMBER 18, 2021

refer to the video of the meeting on the Town of Kittery website at
<http://www.townhallstreams.com/locations/kittery-maine>.