

CALL TO ORDER

ROLL CALL

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

Absent: Drew Fitch, Member, and Steve Bellantone, Member

Staff: Bart McDonough, Town Planner

Advisory: Earledean Wells, Conservation Commission

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA- Chair Dunkelberger proposed moving the Public Hearing items first. The Board agreed. Mr. White suggested the approval of the minutes be moved to the end of the meeting if time allows. The Board agreed.

APPROVAL OF MINUTES- August 27, 2020; September 10, 2020; & September 24, 2020
Deferred to the end of the meeting

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

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.

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

PUBLIC HEARING

4:40

ITEM 2—1-3 Badgers Island West—Shoreland Development Plan Review

Action: Continue public hearing to a subsequent meeting, close public hearing, if public hearing closed, vote on 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 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 lot within the base zone setback of the Shoreland Land Overlay Zone on real property with an address of 1-3 Badgers Island West, Tax Map 1, Lot 19 in of the Mixed-Use Badgers Island (MU-BI) zoning district and Shoreland (OZ-SL-250'), Resource Protection (OZ-RP) and Commercial Fisheries/Maritime Activities (OZ-CFMU) Overlay Zones.

Eric Weinrieb, Altus Engineering, Inc. gave an update on the project, referencing updated plans. Mr. Weinrieb reviewed the plans at the request of the Board.

Discussion continued on the FEMA flood zone.

Mr. White moved to move the Resource Protection Overlay Zone line to the FEMA Zone A A2 boundary. Seconded by Vice Chair Kalmar. The motion passed by roll call vote 5-0-0.

Chair Dunkelberger opened the public hearing.

Ben Porter, Langdon's Island Condominium Association made a comment in support of the project. Earledean Wells asked a question regarding the chicken coup distance to a restaurant.

Chair Dunkelberger read the received written comments into record from Aaron Marconi and Jamie Hayward.

Chair Dunkelberger closed the public hearing.

Mr. White moved to approve the plan with the stated condition. Seconded by Vice Chair Kalmar. 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 each finding, 5-0-0.

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

52:55

ITEM 3— 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) zoning district and the Shoreland (OZ-SL-250'), Resource Protection (OZ-RP) and Commercial Fisheries/Maritime Uses Overlay Zones.

Amy Dutton presented the project and reviewed the plan.

Chair Dunkelberger opened the public hearing.

There being no comments, the public hearing was closed.

Vice Chair Kalmar moved to approve the plan. Seconded by Mr. Ledgett. 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 each finding, 5-0-0.

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

OLD BUSINESS

1:17:41

ITEM 1—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').

Erik Saari, Altus Engineering, Inc. updated the Board on any plan changes.

Discussion ensued on the landscaping plan and the cupola.

Mr. Ledgett moved to approve the application as amended. Seconded by Mr. Perry. 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 each finding, 5-0-0.

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

The Board took a break at 7:54 PM and reconvened at 7:58 PM.

NEW BUSINESS

1:59:23

ITEM 4—20 Folcutt Road—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, owner/applicant Wladislaw Realty Trust and agent Walsh Engineering Associates requests approval to replace and expand legally non-conforming structures on a legally conforming lot within the base zone setback of the Shoreland Overlay Zone located on real property with the address of 20 Folcutt Road, Tax Map 25, Lot 18, in the Residential-Kittery Point Village (R-KPV) Zone and the Shoreland (OZ-SL-250'), Resource Protection (OZ-RP) Overlay Zones.

Bill Walsh, Walsh Engineering Associates, presented the project and reviewed the plans with the Board.

Discussion ensued on the landscaping plan and the boathouse.

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

The Board discussed dates for a site walk and public hearing.

Vice Chair Kalmar moved to set a site walk on February 1, 2022 at 10 AM. Seconded by Mr. Perry. The motion passed by roll call vote 5-0-0.

Mr. White moved to schedule a public hearing on February 10, 2022 at 6 PM. Seconded by Mr. Ledgett. The motion passed by roll call vote 5-0-0.

2:35:28

ITEM 5—16 Trefethen Avenue—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/applicants Joseph D. and Dierdre M. McEachern and agent Ambit Engineering, Inc. requests approval to expand 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 16 Trefethen Avenue Road, Tax Map 10, Lot 25, in the Residential-Urban (R-U) Zone and the Shoreland (OZ-SL-250'), Resource Protection (OZ-RP) Overlay Zone.

Steven Riker, Ambit Engineering, Inc. presented the project and reviewed the plans with the Board.

Discussion ensued briefly on the lots being two parcels or one combined parcel.

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

The Board decided not to hold a site walk.

Vice Chair Kalmar moved to schedule a public hearing for February 10, 2022 at 6 PM. Seconded by Mr. White. The motion passed by roll call vote 5-0-0.

Mr. Ledgett moved to continue the application until February 10, 2022. Seconded by Mr. White. The motion passed by roll call vote 5-0-0.

2:49:17

ITEM 6—28 Wyman Avenue—Preliminary Site Plan Review

Action: Accept application as complete; if accepted--continue application to a subsequent meeting, or set public hearing and site walk. Pursuant to §16.3 Land Use Regulations, §16.10. Development Plan Application Review of the Town of Kittery Land Use and Development Code, owner/applicant Lusitano, LLC, and agent Altus Engineering, Inc. requests approval demolish the lot's existing structures and construct 3 dwelling units with appurtenant infrastructure on a legally non-conforming lot located

on real property with the address of 28 Wyman Avenue, Tax Map 16, Lot 148, in the Residential-Urban (R-U) zoning district.

Erik Saari, Altus Engineering, Inc. presented the application and reviewed the plans with the Board.

Mr. McDonough presented to the Board the correction of this application being a Minor Subdivision Review and how that affects the plans. Discussion continued on the wetland and possible vernal pool, with setbacks and DEP input.

The applicant will rescind the application and reapply for a Minor Subdivision Review.

3:00:15

ITEM 7—621 - 623 Haley Road—Medical Marijuana Registered Caregiver Home Establishment

Action: Accept application as complete, continue to a subsequent meeting, set public hearing and/or site walk (discretionary), or approve or deny application. Pursuant to §16.3 Land Use Zone Regulations, §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 owner/applicant Wendy Turner, owner of Surf Sustainable Cannabis, requesting approval for a special exception to operate a Medical Marijuana Registered Caregiver Home Establishment on real property with an address of 621 Haley Road (Tax Map 36, Lot 23) and 623 Haley Road (Tax Map 36 – Lot 24) located in the Residential-Kittery Point Village (R-KPV) zoning district and Resource Protection (OZ-RP) Overlay Zone.

Wendy Turner presented her business briefly to the Board.

Discussion ensued on the state laws for the medical marijuana businesses. Mr.

McDonough read the applicable state statutes into record for the Board.

Discussion around odor control, waste management, employees and parking, and square footage for inside operations ensued.

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

The Board decided not to hold a site walk or a public hearing.

Wendy Turner described the site layout to the Board.

Discussion on the ordinance continued briefly.

Vice Chair Kalmar moved to approve the application. Seconded by Mr. Ledgett. 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 each finding, 5-0-0.

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

The Board continued Item 8 and Item 9 to the next meeting.

ITEM 8—41 Route 236—Preliminary Site Plan Review

Action: Accept application as complete; if accepted--continue application to a subsequent meeting, or set public hearing and site walk. Pursuant to 16.3 Land Use Regulations, 16.6.4.D Special Exception Use Request, 16.8 Design Performance Standards for Built Environment and §16.10 Development Plan Application and Review of the Town of Kittery Land Use and Development Code, owner LaPierre Properties, LLC and applicant Well Field 44, LLC with agent Attar Engineering, Inc. requests approval for a special exception use to construct a 3,150-sf Marijuana Business with appurtenant infrastructure and to fill 10,384-sf of wetland, located on real property with the address of 41 Route 236, Tax Map 29, Lot 1, in the Commercial 2 (C-2) zoning district.

Continued to the January 27, 2022 meeting due to time limitations.

ITEM 9—8 Dexter Lane—Preliminary Site Plan Review

Action: Accept application as complete; if accepted--continue application to a subsequent meeting, or set public hearing and site walk. Pursuant to 16.3 Land Use Regulations, 16.6.4.D Special Exception Use Request, 16.8 Design Performance Standards for Built Environment and §16.10 Development Plan Application and Review of the Town of Kittery Land Use and Development Code, owner The Outlet Mall of Kittery, LLC and applicant Tree Tips 3, LLC with agent Attar Engineering, Inc. requests approval for a special exception use to operate a Marijuana Business within an existing commercial retail space located on real property with the address of 8 Dexter Avenue, Unit 8, Tax Map 47, Lot 3, in the Commercial 1 (C-1) zoning district.

Continued to the January 27, 2022 meeting due to time limitations.

3:52:18

APPROVAL OF MINUTES- August 27, 2020; September 10, 2020; & September 24, 2020

**Mr. Ledgett moved to accept the minutes of August 27, 2020 as presented.
Seconded by Mr. Perry. The motion passed by roll call vote 5-0-0.**

September 10, 2020: line 81 add in the original motion.

**Mr. Ledgett moved to accept the minutes of September 10, 2020 as amended.
Seconded by Mr. Perry. The motion passed by roll call vote 5-0-0.**

**Mr. Ledgett moved to accept the minutes of September 24, 2020 as presented.
Seconded by Vice Chair Kalmar. The motion passed by roll call vote 5-0-0.**

OTHER BUSINESS

3:56:08

ITEM 10 – Board Member Items/Discussion

Mr. White informed the Board he will not be at the next meeting.

3:57:04

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

Mr. McDonough apologized for the long agenda.

3:57:46

Adjournment

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

The Kittery Planning Board meeting of January 13, 2022 adjourned at 9:58 p.m.

Submitted by Carrie Varao, Development Staff Clerk on June 8, 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>.