

**TOWN OF KITTERY, ME
PLANNING BOARD MEETING
Council Chambers**

**APPROVED
JUNE 23, 2016**

Meeting called to order: 7:00 pm

Pledge of Allegiance

Roll Call:

Board members present:, Vice Chair Karen Kalmar, Robert Harris, Brett Costa, Dutch Dunkelberger, Debbie Driscoll-Davis, Mark Alesse

Board members absent: Chair Ann Grinnell

Staff present: Chris Di Matteo, Town Planner

Public Comment: Ms. Kalmar opened the floor for public comment. Hearing none; the floor was closed for public comment.

Minutes: None.

PUBLIC HEARING

ITEM 1 – Town Code Amendment – 16.3.2.17.D – Shoreland Overlay Zone Standards; and 16.2.2 - Definitions

Action: Hold a public hearing; Recommend to Town Council for adoption. The proposed amendment removes redundancies and improves consistency with regard to language and intention throughout the code.

Ms. Kalmar opened the public hearing. Hearing none; the public hearing was closed.

Ms. Kalmar recommended removing “lot coverage, lot/structure” from the Code for reasons provided. She responded to Mr. Di Matteo that this be incorporated into the amendment before recommending to Town Council.

Mr. Dunkelberger made a motion accept the changes to Town Code Amendment – 16.3.2.17.D – Shoreland Overlay Zone Standards and 16.2.2 Definitions as amended and recommend to Town Council.

Ms. Driscoll-Davis seconded.

Motion passed 4-0-2, with Mr. Costa and Mr. Harris abstained.

ITEM 2 – Town Code Amendments – Table 1 – chapter 16.8; Article IV – Design and Construction Standards for Streets and Pedestrian Ways

Action: Hold a public hearing; Recommend to Town Council for adoption. The proposed amendment eliminates the requirement for secondary access for secondary collectors street to be for emergency use only.

Ms. Kalmar opened the public hearing. Hearing none; the public hearing was closed.

Mr. Di Matteo explained that the proposed changes include the use of “emergency only” because a cul-de-sac could not qualify as a secondary collector.

Mr. Costa asked to clarify the exact design and construction standards for cul-de-sac secondary collectors in reference to the table.

Mr. Di Matteo pointed out that the word “desirable” was removed to be replaced with “required”.

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Mr. Dunkelberger made a motion to accept the changes to Town Code Amendments – Table 1 – chapter 16.8; Article IV – Design and Construction Standards for Streets and Pedestrian Ways as amended and recommend to Town Council.

Mr. Alesse seconded.

Motion passed 6-0-0.

OLD BUSINESS

ITEM 3 – 2 Hutchins Cove Drive – Shoreland Development Plan Review

Action: Review application. Approve or Deny Plan. Owner/applicant Kim Killeen requests consideration of plans to construct a single-family dwelling on a vacant lot located at 2 Hutchins Cove Drive (Tax Map 39 Lot 3-9) in the Residential-Rural (R-RL) and Shoreland Overlay (SH-OZ-250') Zones. Agent is Ken Markley, North Easterly Surveying.

Mr. Markley explained the proposed building was moved outside the wooded area and still meets requirements. His team agreed with the staff review notes.

Mr. Markley asked to clarify the Code after reviewing staff review notes regarding Title 16.8.28.1.F. The use of the word “and” in 16.8.28.1 is inclusive, which means the proposed plan would have to be in the Shoreland Overlay and Resource Protection Overlay Zones. Based on his conversation with Maine DEP, the 1,500 square feet maximum is intended for small cottages between the 75 to 100-foot setbacks. There were further deliberations on the interpretation of the Code amongst the Board, staff, and Mr. Markley.

Ms. Driscoll-Davis asked how much of the building is within the setback. Mr. Markley replied that there is none.

Mr. Di Matteo felt the context of the requirement is that the State has a 1,500-foot maximum in the Resource Protection Overlay Zones. However, he acknowledged that the original intent was difficult to understand. He explained several overlay zones fall within the Shoreland Overlay Zones at the State level, which is why it has been separated in the Kittery Code. The Board felt inclined to accept the interpretation presented by Mr. Markley and thought further revision of the Code may be necessary to alleviate confusion.

Ms. Earledean Wells asked to clarify a hashed out walkway on the plan and whether it was incorporated into the calculation for devegetated area.

Ms. Wells requested to add a condition of approval to prevent additional clearing.

The Board unanimously agreed that a public hearing would not be necessary.

Mr. Dunkelberger made a motion to grant approval the Shoreland Development Plan application dated May 18, 2016 for owner/applicant Kim Killeen located at 2 Hutchins Cove Drive (Tax Map 39 Lot 3-9) in the Residential-Rural (R-RL) and Shoreland Overlay (SH-OZ-250') Zones upon the review and voting in the affirmative of the findings of fact.

Mr. Costa seconded.

Mr. Di Matteo explained amended conditions of approval.

Motion passed 6-0-0.

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Mr. Costa stated his concern that the one-lot parcel is a Board of Appeals issue.

FINDINGS OF FACT

Chapter 16.3 LAND USE ZONE REGULATIONS

16.3.2.17.D Shoreland Overlay Zone

1.d The total footprints of the areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development, except in the following zones...

Findings: The proposed development includes a devegetated area of 12.8% of the lot.

Conclusion: The requirement appears to be met.

Vote: 6 in favor 0 against 0 abstaining

**Chapter 6 DECISION APPEAL, VARIANCE and OTHER REQUESTS
Article 6 Basis for Decision**

16.6.6.1 Conditions

B. In hearing appeals/requests under this section, the Board of Appeals (or Planning Board per Title 16.6.4.4.B) must use the following criteria as the basis of a decision. The:

- 1. Proposed use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use zones;*
- 2. Use will not prevent the orderly and reasonable use of permitted or legally established uses in the zone wherein the proposed use is to be located, or of permitted or legally established uses in adjacent use zones*
- 3. Safety, the health, and the welfare of the Town will not be adversely affected by the proposed use or its location; and*
- 4. Use will be in harmony with and promote the general purposes and intent of this Code.*

Finding: All abutting properties include the same use as the proposed development. Factors for consideration, 16.6.6.2 and additional conditions, 16.6.6.3, have been considered and the development does not result in any adverse impact.

Conclusions: This requirement appears to be met.

Vote: 6 in favor 0 against 0 abstaining

**Chapter 10 DEVELOPMENT PLAN APPLICATION AND REVIEW
Article 10 Shoreland Development Review**

16.10.10.2 Procedure for Administering Permits

D. An application will be approved or approved with conditions if the reviewing authority makes a positive finding based on the information presented. It must be demonstrated the proposed use will:

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1. Maintain safe and healthful conditions;

Finding: The proposed development as represented in the plans and application does not appear to have an adverse impact.

Conclusion: This requirement appears to be met

Vote: 6 in favor 0 against 0 abstaining

2. Not result in water pollution, erosion or sedimentation to surface waters;

Finding: Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction to avoid impact on adjacent surface waters.

Conclusion: This requirement appears to be met

Vote: 6 in favor 0 against 0 abstaining

3. Adequately provide for the disposal of all wastewater;

Finding: The applicant has submitted a septic application for a two compartment, 1500-gallon treatment tank to serve a 3-bedroom single-family dwelling.

Conclusion: This requirement appears to be met.

Vote: 6 in favor 0 against 0 abstaining

4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

Finding: Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction to avoid impact on adjacent surface waters. These conditions should be added to the plan.

Conclusion: The proposed development does not appear to have an adverse impact. With the suggested conditions #2 and #3, this standard appears to be met.

Vote: 6 in favor 0 against 0 abstaining

5. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;

Finding: Shore cover is not adversely impacted

Conclusion: This requirement appears to be met.

Vote: 6 in favor 0 against 0 abstaining

6. Protect archaeological and historic resources;

Finding: There does not appear to be any resources impacted.

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| <u>Conclusion:</u> This requirement appears to be met. |
| Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |
| <i>7. Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;</i> <u>Finding:</u> The property is not located in the Commercial Fisheries / Maritime Use Zone. <u>Conclusion:</u> This requirement is not applicable. |
| Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |
| <i>8. Avoid problems associated with floodplain development and use;</i> <u>Finding:</u> A flood zone is located to the rear of the property along Spruce Creek. No structures or other development is proposed in the flood zone. <u>Conclusion:</u> This requirement appears to be met. |
| Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |
| <i>9. Is in conformance with the provisions of this code;</i> <u>Finding:</u> The existing clearing of approximately 21,670 square feet, 43.8% of the total lot area, is not being enlarged as required by Title 16.9.2.2.D. <u>Conclusion:</u> This requirement appears to be met. |
| Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |
| <i>10. Be recorded with the York county Registry of Deeds.</i> <u>Finding:</u> A plan suitable for recording has been prepared. <u>Conclusion:</u> As stated in the Notices to Applicant contained herein, Shoreland Development plans must be recorded with the York County Registry of Deeds prior to the issuance of a building permit. |
| Vote: <u>6</u> in favor <u>0</u> against <u>0</u> abstaining |

Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review standards for approval and, therefore, the Planning Board approves the Shoreland Development Plan and subject to any conditions or waivers, as follows:

Waivers: None

Conditions of Approval (to be depicted on final plan to be recorded):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)

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2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
3. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope, including existing vegetation line as depicted on the plan. These markers must remain in place until the Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
4. The property is in excess of the allowed cleared area per 16.9.2.2.D, and no further clearing of vegetated canopy or cover is allowed. No trees are to be removed without prior approval by the Code Enforcement Officer or the Shoreland Resource Officer. Efforts to protect existing trees must be in place prior to construction.
5. All Notices to Applicant contained herein (Findings of Fact dated 6/23/2016).

Conditions of Approval (not to be depicted on final plan):

6. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer Review Engineer, and submit for Staff review prior to presentation on final Mylar.

The Planning Board authorizes the Planning Board Chair to sign the Final Plan and the Findings of Fact upon confirmation of required plan changes.

Vote of 6 in favor 0 against 0 abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON June 23, 2016

Ann Grinnell, Planning Board Chair

Notices to Applicant:

1. Incorporate any plan revisions on the final plan as required by Planning Board and submit for Staff review prior to presentation of final mylar.
2. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with the permitting, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
3. One (1) mylar copy of the final plan and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department for signing. Date of Planning Board approval shall be included on the final plan in the Signature Block. After the signed plan is recorded with the York County Registry of Deeds, a mylar copy of the signed original must be submitted to the Town Planning Department.

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4. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating as elements the Development Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered

NEW BUSINESS

ITEM 4 – 9 Pocahontas Road – Major Modification to an approved Shoreland Development Plan

Action: Accept or deny application; Approve or deny plan. Owner Brian Seaward and Applicant Gary Hall requests to amend a Shoreland Development Plan approved on March 10, 2016 for a property located at 9 Pocahontas Road (Tax Map 52 Lot 3) in the Residential-Rural Conservation (R-RLC) and Shoreland Overlay (OZ-SL-250) Zones. Agent is Ken Markley, North Easterly Surveying.

Mr. Markley explained the proposed plan for a wooden bridge given consideration of two vernal pools and surrounding wetlands. He mentioned that the abutter has allowed access to the portion of their property affected.

Mr. Dunkelberger commended the plan and previous agenda item for creativity.

Mr. Dunkelberger made a motion to accept the major modification to an approved plan application dated June 2, 2016 for the previously approved Shoreland Development Plan dated February 17, 2016 from owner Brian Seaward and applicant Gary Hall for 9 Pocahontas Road (Tax Map 52 Lot 3) in the Residential-Rural Conservation (R-RLC) and Shoreland Overlay (OZ-SL-250) Zones.

Mr. Alesse seconded.

Motion passed 6-0-0.

Mr. Dunkelberger made a motion to approve the major modification to an approved plan application dated June 2, 2016 for the previously approved Shoreland Development Plan dated February 17, 2016 from owner Brian Seaward and applicant Gary Hall for 9 Pocahontas Road (Tax Map 52 Lot 3) in the Residential-Rural Conservation (R-RLC) and Shoreland Overlay (OZ-SL-250) Zones upon review and voting in the affirmative to amend the findings of fact dated March 10, 2016.

Mr. Alesse seconded.

Ms. Kalmar requested to amend the findings of fact regarding 16.9.3.7.B. and to remove the condition for approval regarding upland buffers.

Mr. Di Matteo recommended to add two conditions of approval not to be depicted on the final plan to specify that the Fire Chief review the bridge crossing and vernal pool markers be installed.

Motion passed 6-0-0.

FINDINGS OF FACT

Chapter 16.3 LAND USE ZONE REGULATIONS

16.3.2.17.D Shoreland Overlay Zone

1.d The total footprints of the areas devegetated for structures, parking lots and other impervious

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surfaces, must not exceed twenty (20) percent of the lot area, including existing development, except in the following zones...

Findings: Maximum devegetated area in the Shoreland Overlay Zone is 20%. The proposed development does not exceed devegetated coverage amounts

Conclusion: The requirement appears to be met.

Vote: 6 in favor 0 against 0 abstaining (3/10/2016)

**Chapter 9 DESIGN AND PERFORMANCE STANDARDS – NATURAL ENVIRONMENT
Article III Conservation of Wetlands Including Vernal Pools**

16.9.3.7 Wetlands Alteration Approval Criteria

A. In making the final determination as to whether a wetland application should be approved, the Planning Board will consider existing wetland destruction and the cumulative effect of reasonably anticipated future uses similar to the one proposed. Preference will be given to activities that meet wetland setbacks, have a reasonable stormwater management plan (subject to Planning Board review and approval), and that dedicate easements for the purposes of maintaining the wetland and the associated drainage system. Approval to alter a wetland will not be granted for dredging or ditching solely for the purpose of draining wetlands and creating dry buildable land areas. An application for a wetlands alteration will not be approved for the purpose of creating a sedimentation or retention basin in the wetland. Increased peak runoff rates resulting from an increase in impermeable surfaces from development activities are not allowed.

Findings: The 350 square foot wetland impact does not appear to have an adverse impact on the remaining wetland. Revised 6/23/2016: The application does not include any alterations to any of the wetlands or vernal pools located on the property.

Conclusion: This requirement appears to be met. (6/23/2016) This requirement is not applicable

Vote of 6 in favor 0 against 0 abstaining (3/10/2016)

Vote of 6 in favor 0 against 0 abstaining

B. It is the responsibility and burden of the applicant to show that the proposed use meets the purposes of this Code and the specific standards listed below to gain Planning Board approval to alter a wetland. The Planning Board will not approve a wetlands alteration unless the applicant provides clear and convincing evidence of compliance with the Code.

Findings: The intent of the driveway is to access a single-family dwelling, which is a permitted use in the R-RLC and OZ-SL-250 zones. Driveways are a permitted activity within regulated wetlands. Revised 6/23/2016: The proposed driveway crosses the wetland by way of bridge. No fill or culverts will be used to avoid wetland alteration.

Conclusion: This requirement appears to be met. (6/23/2016) This requirement is not applicable

Vote of 6 in favor 0 against 0 abstaining (3/10/2016)

Vote of 6 in favor 0 against 0 abstaining

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C. In evaluating the proposed activity, the Planning Board may need to acquire expert advisory opinions. The applicant must be notified in writing, by the Town Planner at the Planning Board's request, that the applicant will bear the expenses incurred for the expert persons or agencies. The Planning Board will consider the advisory opinion, including any recommendations and conditions, provided by the Conservation Commission.

Findings: The proposed development has a total wetland impact of less than 500 square feet and does not require a wetland mitigation report.

Conclusion: This requirement is not applicable.

Vote of 6 in favor 0 against 0 abstaining (3/10/2016)

D. When the Planning Board finds the demonstrated public benefits of the project as proposed, or modified, clearly outweigh the detrimental environmental impacts, the Planning Board may approve such development, but not prior to granting approval of a reasonable and practicable mitigation plan, (see Section 16.9.3.9) and not prior to the completion of all performance guaranties for the project, (see Section 16.10.8.2.2).

Findings: The final plan depicts the preservation of an undisturbed upland buffer zone adjacent to the wetland boundary equal in size to the wetland alteration. A wetland mitigation fee is also required. Revised (6/23/2016) The application does not include any alterations to any of the wetlands or vernal pools located on the property.

Conclusion: This requirement appears to be met (6/23/2016) This requirement is not applicable.

Vote of 6 in favor 0 against 0 abstaining (3/10/2016)

Vote of 6 in favor 0 against 0 abstaining

E. The applicant must submit applicable documentation that demonstrates there is no practicable alternative to the proposed alteration of the wetland. In determining if no practicable alternative exists, the Board will consider the following:

The proposed use:

- 1. Uses, manages or expands one or more other areas of the site that will avoid or reduce the wetland impact;*
- 2. Reduces the size, scope, configuration or density of the project as proposed, thereby avoiding or reducing the wetland impact;*
- 3. Provides alternative project designs, such as cluster development, roof gardens, bridges, etc., that avoid or lessen the wetland impact; and*
- 4. Demonstrates that the proposed development meets or exceeds best management practices for stormwater management in the wetland areas.*

Finding: The proposed development crosses at the wetland's narrowest point so as to minimize the impact, to the greatest possible extent. (6/23/2016) The application does not include any alterations to any of the wetlands or vernal pools located on the property.

Conclusion: This requirement appears to be met. (6/23/2016) This requirement is not applicable.

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| Vote of <u> 6 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining (3/10/2016) Vote of <u> 6 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining | |
| <p><i>F. In determining if the proposed development plan affects no more wetland than is necessary the Planning Board will consider if the alternatives discussed above in subsection A of this section accomplish the following project objectives {described in 16.9.3.7.F}: The proposed use will not:</i></p> <ol style="list-style-type: none"> <i>1. Unreasonably impair or diminish the wetland's existing capacity to absorb, store, and slowly release stormwater and surface water runoff;</i> <i>2. Unreasonably increase the flow of surface waters through the wetland;</i> <i>3. Result in a measurable increase in the discharge of surface waters from the wetland;</i> <i>4. Unreasonably impair or diminish the wetland's capacity for retention and absorption of silt, organic matter, and nutrients;</i> <i>5. Result in an unreasonable loss of important feeding, nesting, breeding or wintering habitat for wildlife or aquatic life; all crossings must be designed to provide a moist soil bed in culvert inverts and to not significantly impede the natural migration of wildlife across the filled area;</i> <i>6. Result in a measurable increase of the existing seasonal temperature of surface waters in the wetland or surface waters discharged from the wetlands.</i> <i>7. Result in a measurable alteration or destruction of a vernal pool.</i> | |
| <p><u>Findings:</u> The 350 square foot wetland impact does not appear to have an adverse impact on the remaining wetland. (6/23/2016) The application does not include any alterations to any of the wetlands or vernal pools located on the property.</p> | |
| <p><u>Conclusion:</u> This requirement appears to be met. (6/23/2016) This requirement is not applicable.</p> | |
| Vote of <u> 6 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining (3/10/2016) Vote of <u> 6 </u> in favor <u> 0 </u> against <u> 0 </u> abstaining | |

Chapter 10 DEVELOPMENT PLAN APPLICATION AND REVIEW

Article 10 Shoreland Development Review

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| <p>16.10.10.2 Procedure for Administering Permits</p> <p><i>D. An application will be approved or approved with conditions if the reviewing authority makes a positive finding based on the information presented. It must be demonstrated the proposed use will:</i></p> |
| <p><i>1. Maintain safe and healthful conditions;</i></p> <p><u>Finding:</u> The proposed development does not appear to have an adverse impact.</p> |
| <p><i>2. Not result in water pollution, erosion or sedimentation to surface waters;</i></p> <p><u>Finding:</u> Maine DEP Best Management Practices will be followed for erosion and sedimentation control during site preparation and building construction (see conditions #2 and #3) to avoid impact on adjacent surface waters.</p> |

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3. Adequately provide for the disposal of all wastewater;

Finding: The proposed development does not require a connection to an existing septic system.

Conclusion: Requirements 1 & 2 appear to be met. Requirement 3 is not applicable.

Vote of 6 in favor 0 against 0 abstaining (3/10/2016)

4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

Finding: Maine DEP Best Management Practices will be followed for erosion and sedimentation control during site preparation and building construction (see conditions #2 and #3) to avoid impact on adjacent surface waters. These conditions should be added to the plan.

Conclusion: The proposed development does not appear to have an adverse impact. With the suggested conditions #2 and #3, this standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining (3/10/2016)

5. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;

Finding: Shore cover is not adversely impacted

6. Protect archaeological and historic resources;

Finding: There does not appear to be any resources impacted.

7. Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;

Finding: The proposed development is not in the Commercial Fisheries / Maritime Uses Zone

8. Avoid problems associated with floodplain development and use;

Finding: The proposed development is not located in a flood zone.

9. Is in conformance with the provisions of this code;

Finding: The proposed development complies with the standards of Title 16.

Conclusion: Requirements 5, 6 and 9 appear to be met. Requirements 7 and 8 are not applicable.

Vote of 6 in favor 0 against 0 abstaining (3/10/2016)

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10. Be recorded with the York county Registry of Deeds.

Finding: A plan suitable for recording has been prepared.

Conclusion: As stated in the Notices to Applicant contained herein, shoreland Development plans must be recorded with the York County Registry of Deeds prior to the issuance of a building permit.

Vote of 6 in favor 0 against 0 abstaining (3/10/2016)

Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review standards for approval and, therefore, the Planning Board approves the Shoreland Development Plan for owner Brian Seaward and applicant Gary Hall for a 18-foot gravel driveway located at 9 Pocahontas Road (Tax Map 52 Lot 3) in the Residential–Rural Conservation and Shoreland Overlay Zones subject to any conditions or waivers, as follows:

Waivers: None

Conditions of Approval (to be depicted on final plan to be recorded):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
3. ~~An upland buffer zone adjacent to the wetland boundary equal in size to the wetland alteration must remain preserved and undisturbed.~~
4. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
5. No trees are to be removed without prior approval by the Code Enforcement Officer or the Shoreland Resource Officer. Efforts to protect existing trees must be in place prior to construction.
6. All Notices to Applicant contained herein (Findings of Fact dated 3/10/2016 and amended 6/23/2016).

Conditions of Approval (not to be depicted on final plan):

7. Incorporate any plan revisions on the final plan as recommended by Planning Board, Peer Review Engineer or in Staff notes dated 6/23/2016, and submit for Staff review prior to presentation on final Mylar.

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8. Bridge design and weight limits will be reviewed by the Fire Chief.
9. Vernal pool markers will be installed by the applicant.

The Planning Board authorizes the Planning Board Chair to sign the Final Plan and the Findings of Fact upon confirmation of required plan changes.

**Vote of 6 in favor 0 against 0 abstaining (3/10/2016)
Vote of 6 in favor 0 against 0 abstaining**

APPROVED BY THE KITTERY PLANNING BOARD ON March 10, 2016
Amended June 23, 2016

Ann Grinnell, Planning Board Chair

Notices to Applicant:

1. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer Review Engineer, and submit for Staff review prior to presentation of final mylar.
2. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with the permitting, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
3. One (1) mylar copy of the final plan and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department for signing. Date of Planning Board approval shall be included on the final plan in the Signature Block. After the signed plan is recorded with the York County Registry of Deeds, a mylar copy of the signed original must be submitted to the Town Planning Department.
4. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating as elements the Development Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

ITEM 5 – Town Code Amendments 16.9.4.2 Newly-created Wetlands and Water Bodies

Action: Review amendment. Schedule a public hearing. The proposed amendment increases the required setback for created wetlands.

Mr. Di Matteo noted that Ms. Wells drafted documentation to support the proposed amendment the staff

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prepared. The main concern includes how to define a wetland.

Mr. Dunkelberger asked where the 501 square foot threshold is derived from. Mr. Di Matteo pointed to Table 16.9 – Minimum Setbacks from Wetlands and Water Bodies. Ms. Wells provided a brief history of the ordinance.

Mr. Dunkelberger expressed a concern that the proposed amendment may not adequately differentiate a regulated or non-regulated wetland area. The Board and Mr. Di Matteo further deliberated how to describe that differentiation and felt it may be helpful to conduct further research.

Ms. Kalmar suggested to have the proposed amendment incorporated into the winter program of amendments. The Board agreed to not hold a public hearing.

ITEM 6 – Board Member Items / Discussion

A. Committee Updates

- The Comprehensive Plan Update Committee attended the Kittery Block Party on Saturday, June 18, 2016. The next committee meeting is Wednesday, June 29, 2016 at 6:00pm.
- An online survey is available through the Town's website or <http://www.courbanize.com/kittery-comprehensive-plan/> for citizens that have not been able to attend the public forums and would like to participate.
- The Open Space Committee is interested in conducting mapping for regulated parcels of open space that the Planning Board has set aside. Mr. Di Matteo has offered to research whether the staff could support this initiative.

B. Action List – None.

C. Other – None.

ITEM 7 – Town Planner Items:

- A. The Wood Island exterior restoration project is progressing positively and the remediation portion is near completed.
- B. Mr. Di Matteo will look into having the GIS maps updated per Ms. Wells' request.

Mr. Dunkelberger moved to adjourn.

Ms. Driscoll-Davis seconded.

Motion carried 6-0-0.

The Kittery Planning Board meeting of June 23, 2016 adjourned at 8:10 p.m.

Submitted by Marissa Day, Minutes Recorder, on July 6, 2016.

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

**TOWN OF KITTERY, ME
PLANNING BOARD MEETING
Council Chambers**

**APPROVED
JUNE 23, 2016**

[http://www.townhallstreams.com/locations/kittery-maine.](http://www.townhallstreams.com/locations/kittery-maine)