

**CALL TO ORDER**

**ROLL CALL**

Present: Steve Bellantone, Member; Drew Fitch, Member; Ron Ledgett, Member; Mark Alesse, Member; Karen Kalmar, Vice Chair and Dutch Dunkelberger, Chair

Absent: Russell White, Member

Staff: Jamie Steffen, Town Planner; Adam Causey, Director of Planning and Development

Advisory: Nanci Lovett, Conservation Commission

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF MINUTES – January 24, 2019**

Vice Chair Kalmar moved to approve the minutes as written. Seconded by Mr. Ledgett.

The motion carried 4-0-2.

**PUBLIC COMMENT**

Chair Dunkelberger opened the public comment segment of the meeting. There being no comments, Chair Dunkelberger closed the public comment segment.

**OLD BUSINESS**

**ITEM 1 - Andrews Cluster Subdivision – Waiver Request**

Action: Approve or deny waiver. Owner /Applicant, Arthur W. Andrews Rev. Trust requests consideration of a waiver from Section 16.8.4.4 and Table 1 Class II Private Streets of Title 16 to exceed the street gradient requirement for a section of roadway in the 11-lot cluster subdivision on 93.32 acres located off Deer Ridge Lane (Tax Map 60, Lot 10) in the Residential Rural (R-RL) and Shoreland Overlay and Resource Protection (OZ-RP & OZ-SL 250') Zones. Agent is Jeff Clifford, P.E., Altus Engineering.

Mr. Steffen explained that he neglected to include a recommended motion for this waiver request at the April 11<sup>th</sup> meeting so the Board did not consider it in granting the approval.

Jeff Clifford, Altus Engineering, explained the waiver request in detail.

There were no questions from the Board.

**Vice Chair Kalmar moved to approve the waiver request from Section 16.8.4.4 and Table 1 Class II Private Streets of Title 16 for a road gradient of 10.6%. Seconded by Mr. Ledgett.**

**The motion carried 5-1-0.**

**Vice Chair Kalmar moved to amend the Findings of Fact for the Andrews Major Cluster Subdivision Plan dated 4-11-19 under waivers add #7 to read Section 16.8.4.4 and Table 1 Class II Private Streets Road Gradient to allow a 10.6% maximum grade. Seconded by Mr. Ledgett.**

**The motion carried 5-1-0.**

**ITEM 2 - Land Use and Development Code (Title 16) Amendments –  
ARTICLE XXV Accessory Dwelling Units**

The Kittery Planning Board will consider proposed amendments to **Section 16.2 DEFINITIONS** and **Section 16.8.25 Accessory Dwelling Units** to allow for greater flexibility in the design and development of accessory dwelling units. Vote to Recommend. Review and discuss proposed changes to ARTICLE XXV Accessory Dwelling Units. Vote to recommend to the Town Council.

Chair Dunkelberger opened the discussion by the Board by reading comments by member Mr. White who was not able to be in attendance. After prompting by the Chair, the Board discussed the purpose of the ADU ordinance. Vice Chair Kalmar suggested addressing short term rentals (STR) separately rather than burying in the ADU language.

Mr. Bellantone commented that he agreed with Mr. Ledgett's suggestion to delete #3 in the purpose statement and change #4 to #3.

Mr. Fitch about the proposed ordinance allowing STR and then a future STR regulation taking that away.

The Board had an extensive discussion about owner occupancy requirement of the proposed ordinance.

Kendra Amaral, Town Manager, responded to Chair Dunkelberger's question regarding the residency requirement. She explained that it was taken out after review by the Housing Working Group and the Kittery Land Issues Committee

because it was determined that it would be too hard to enforce. The concern was how to do you prove residency. Mr. Ledgett disagreed and stated the way to do it would be by permit similar to the way we do it by moorings. Mr. Ledgett discussed enforcement issue further and expressed his concern about investors pricing Kittery residents out of the ADU market.

There was discussion about a two tiered ownership system.

Mr. Fitch discussed the intent of the proposed ordinance and argued that allowing STR in the established single family residential neighborhoods can be detrimental to the fabric of the neighborhood and will take away from the permanent resident housing.

Chair Dunkelberger polled the Board on whether it was in favor of allowing ADU to be rented for less than 30 days:

Mr. Bellantone – Yes  
Mr. Fitch – No  
Mr. Ledgett – Yes  
Ms. Kalmar – Yes  
Mr. Alesse – Yes

Chair Dunkelberger then polled the Board on whether it was in favor the keeping the owner occupancy requirement in the ordinance:

Mr. Bellantone – Yes  
Mr. Fitch – Yes  
Mr. Ledgett – Yes  
Ms. Kalmar – No  
Mr. Alesse – No

Chair Dunkelberger asked to hear from staff on the Board's dilemma. Mr. Causey addressed the concerns expressed about proving residency from a staffing / enforcement standpoint. He discussed the work of the Housing Working Group in on this issue and the less than 30 days rental restriction. He discussed the process going forward and what the Town Council may do with it. He suggested that the Town Council may want to have a joint workshop with the Board as has been past practice with some of the zoning ordinance amendment items. He further suggested that the Board take some kind of action on the proposal that night that can be brought to the Town Council.

Mr. Bellantone moved to forward the proposal to the Town Council with a vote up or down on each of Mr. Ledgett's suggestions for the ordinance. Mr. Ledgett seconded. After question by the Chair Mr. Bellantone revised his motion to ask for a vote up or down on Mr. Ledgett's suggestions as a means to come to a consensus on the final document that could be forwarded to the Town Council.

Chair Dunkleberger went through Mr. Ledgett's suggestions point by point and polled the Board members on each item.

Line 16 to 17 – delete (3) allow more efficient use of existing housing stock and infrastructure,

Line 17 – change (4) to (3)

**The vote was 5-1 to keep the wording of #3 in the proposal.**

29 to 32 – delete No ADU may be rented for less than a 30-day period. Violation of the 30-day minimum rental period shall result in the revocation of the certificate of occupancy for the ADU. A revoked certificate of occupancy for an ADU shall not be reissued for a period of 90 days.

**The vote was to 5-1 in favor of deleting this requirement.**

Line 32 – add: No ADU may be owned separately from its primary dwelling unit.

**The vote was 6-0 in favor of adding this wording.**

Line 35 – Change to read: 16.8.25.3 Annual Permit Application for accessory dwelling unit.

**The vote was 5-1 in favor of change.**

Line 36 to 38 – Change to read: A. An annual permit is required for an ADU, which must be renewed each year. An application to obtain an annual permit for an accessory dwelling unit must be made by the owner residing at the parcel on which the primary unit sits. The completed permit application and associated fees must be submitted to the Town Planner and Code Enforcement Officer for review.

Line 39 – insert after Applications the words “for an annual permit and the annual permit”

**The vote was 5-1 in favor of changes.**

Line 41 – insert new paragraph “C. Permits must be renewed annually by the owner residing at the parcel on which the primary unit sits.”

Line 42 – change C. to D.

**The vote was all in favor.**

Line 48 to 51 – delete the strike-out and keep all of paragraph E.

**The vote was 4-2 in favor of this change.**

Line 121 – add the following words: “ Following Board of Appeals approval the owner must obtain an annual permit per 16.8.25.3 paragraphs A, B and C.

**The vote was all in favor.**

**Mr. Ledgett moved to forward the amended version of the ADU ordinance to Town Council with the recommendation that it be approved. Seconded by Mr. Bellantone.**

**The motion carried 4-2-0.**

### **ITEM 3 – Board Member Items/Discussion**

#### **A. Planning Board Action Item List**

Vice Chair Kalmar asked when the Board would be considering regulations pertaining to STRs. Mr. Causey explained that the process would need to begin with the Kittery Land Issues Committee (KLIC) as is typical with land use ordinance changes. Mr. Ledgett stated that he would like to hear from some of the third parties that have been helping some of the other communities in the State with their regulations.

Mr. Steffen highlighted the other updates. Mr. Causey noted that if there were questions about the priorities the Board could let staff know.

### **ITEM 4 - Town Planner / Director of Planning & Development Items**

#### **A. None**

**Mr. Alesse moved to adjourn the meeting.  
Vice Chair Kalmar seconded the motion.**

**The motion carried 6-0-0.**

The Kittery Planning Board meeting of April 25, 2019 adjourned at 7:47 p.m.

Submitted by Jamie Steffen, Town Planner, on June 13, 2019.

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>.