

**CALL TO ORDER**

**ROLL CALL**

Present: Steve Bellantone, Member; Ronald Ledgett, Clerk; Russell White, Member; John Perry, Member; Drew Fitch, 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 MINUTES- None.**

**PUBLIC COMMENTS**

Public comment and opinion are welcome during this open session. However, comments related to development projects currently under review by the Planning Board shall be heard only during their respective scheduled public hearing. Due to the current pandemic, all meetings and public hearings held by the Planning Board are conducted via Zoom webinar. To register in advance for the webinar, please submit a request to [bmcdonough@kitteryme.org](mailto:bmcdonough@kitteryme.org). After registering, you will receive a confirmation email containing information about joining the webinar. Webinar participants will be able to submit questions and comments during the public hearing and public comment period. Members of the public unable to participate during the webinar may submit comments for agenda items 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 be read into the record by the Planning Board Chair.

There being none the Chair closed the public comments.

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**OLD BUSINESS**

**ITEM 1 – 2 Old Ferry Lane—Shortland Development Plan Review**

Action: Accept or deny plan as complete; continue application to a subsequent meeting, schedule site walk and/or public hearing; approve or deny plan: Pursuant to §16.7.3.3.B Nonconforming structure repair and/or expansion and §16.10.3.4 Shoreland Development Review of the Town of Kittery Land Use Development Code, owner Forbes-Taylor Trust and applicant Elliot Architects requests approval to expand a legally nonconforming dwelling unit on a legally nonconforming lot within the base zone setback of the Shoreland Overlay Zone by 225-sf on real property with an address of 2 Old Ferry Lane, Tax Map 17 - Lot 14, located within the Residential-Urban (R-U) zone and the Shoreland (OZ-SL-250) and Resource Protection (OZ-RP) Overlay Zones.

Mr. McDonough reintroduced the project and reviewed the events that transpired prior to the meeting. Topics included were a legal opinion on expansion activities within the 25-ft. setback of the Shoreland Overlay Zone and the land acquisition by the applicant to accommodate the project. Mr. McDonough then asked Mr. Papadopoli to comment on the application.

Mr. Papadopoli went on to explain the changes made to the plan since the last time the Planning Board reviewed the project. He continued by illustrating how the plan conformed with the pertinent standards such as the 25-ft. setback requirement. He then asked if the Planning Board had any questions on the updated plan.

Vice Chair Kalmar inquired if the foundation of the existing dwelling unit was to be maintained, to which Mr. Papadopoli confirmed it was indeed to remain with slight modifications to accommodate and support the dwelling unit's new architecture.

Mr. Ledgett commented that if it were the case the foundation were to be removed and replaced it would make the project more complicated as additional standards would become operative.

Mr. Ledgett continued, stating that there were many outstanding pieces unresolved and posed the question whether or not the Planning Board should reserve their motion for final approval until all aspects of the plan were settled. A follow-up question was asked by Mr. Ledgett inquiring whether a site visit would be beneficial or not.

Chair Dunkelberger agreed that verification of the accuracy and completeness of the land transfer is essential to have finalized prior to moving forward to a final vote on the application.

Mr. Papadopolis interjected, stating that he has the information that the Planning Board was requesting.

Chair Dunkelberger denied the offer as the Planning Board would need more time to review any new materials.

Chair Dunkelberger continued by posing the question relative to the necessity of a site walk. A debate ensued with the conclusion that a site walk indeed would be beneficial to the Planning Board so as to better understand the application's nuances.

Thereafter, Chair Dunkelberger solicited a vote to accept the application as complete.

**Mr. White moved to accept the plan as complete.**

**Mr. Ledgett seconded.**

Vice Chair Kalmar sought clarification during the discussion period of the motion on the necessary steps the applicant must complete before the Planning Board could move forward with a final vote.

**The motion carried by roll call vote: 7-0-0**

Mr. Papadopolis asked if there were any other issues that needed to be address before the application was to return to the Planning Board for final approval, to which no additional items were enumerated.

Ms. Wells inquired whether or not the dwelling unit was to be connected to the sewer system, to which Mr. Papadopolis confirmed it was indeed to be connected to the Town's sewer system.

Mr. Ledgett remarked on how the height within the 25-ft. setback was not to change with this application and commented that Mr. Papadopolis did an excellent job working within the confines of the pertinent zoning ordinances.

Chair Dunkelberger revisited the question of holding a site visit, to which a debate ensued with the conclusion that it was still sought after and ultimately the Planning Board selected the date of June 15, 2021, at 11:00 am to have it.

**Vice Chair Kalmar motioned to hold the site walk on June 15, 2021 at 11:00 am at 2 Old Ferry Lane.**

**Mr. White seconded.**

**The motion carried by roll call vote: 7-0-0.**

**Vice Chair Kalmar then moved to continue the application.**

**Mr. White seconded.**

**The motion carried by roll call vote: 7-0-0.**

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## **ITEM 2- 21 Litchfield Road—Final Plan Review, Cluster Subdivision**

Action: Continue to a subsequent meeting; approve or deny final plan. Pursuant to Title 30-A M.R.S.A. §4401-4408 Municipal Subdivision Law and §16.10, Article VII Final Plan Review and Decision of the Town of Kittery Land Use and Development Code, the Planning Board shall to consider an application from owner Brenda Haley and applicant Chingburg Development, LLC requesting approval for a cluster subdivision development proposing eight (8) lots with 9 units (two (2) existing and seven (7) proposed) with appurtenant infrastructure on real property with an address of 21 Litchfield Road (Tax Map 46, Lot 6) located in the Residential-Rural (R-RL) Zone and Shoreland-Stream Protection (OZ-SL-75) Overlay Zone.

Chair Dunkelberger opened the agenda item.

Mr. McDonough recapitulated the events leading up to the present constitution of the application and discussed the preliminary review conditions of approval.

Mr. McDonough the asked Mr. Weinrieb (applicant's agent) to comment on the updated plan, to which Mr. Weinrieb reviewed the actions taken and changes made to the plan to qualify for final plan review.

Chair Dunkelberger asked whether or not the subdivision road would remain private, to which Mr. Weinrieb replied that the private road would indeed remain under the ownership of the Housing Association.

Vice Chair Kalmar requested that the Land Stewardship Plan be clearly referenced in the HOA documents to which the applicant agreed to ensure its inclusion therein.

Chair Dunkelberger solicited the Planning Board for additional comments. Hearing none, he requested a motion to be made for final approval.

**Mr. White made a motion to approve the application with the following conditions:**

- 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. 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.**
- 4. All Notices to Applicant contained in the Findings of Fact (dated: 06/10/2021)**
- 5. 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 plan for endorsement.**
- 6. The Home Owners Association (HOA) document must be reviewed and found satisfactory by the Shoreland Resource Officer and the Town Attorney prior to the final Mylar being signed by the Chair.**
- 7. Provide the additional documents and/or responses to all CMA comments prior to presentation of final plan.**

**Second by Mr. Ledgett.**

**The motion carried by roll call vote: 7-0-0.**

**Vice Chair Kalmar read the findings of fact and the Planning Board voted to affirm each finding by roll call vote: 7-0-0.**

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

Chair Dunkelberger started a discussion relative to the Planning Board Bylaws and how the bylaws call for the Planning Board to attend training sessions relative to Planning Board responsibilities and relative legislation.

An ensuing discussion occurred on electing Planning Board members to leadership positions. The Planning Board decided to keep those members in their current position and revisit the item at their December meeting.

**Mr. White motioned to re-nominate retroactively all members in Planning Board leadership positions.**

**Mr. Fitch seconded.**

Chair Dunkelberger clarified during the motion's discussion period that the Planning Board was still to maintain its normal reorganizing schedule.

**Motion carried by roll call vote: 7-0-0.**

Vice Chair Kalmar introduced for discussion two legislative initiatives ( constitutional amendments) that would take away any home rule control from municipalities relative to growing food and controlling environmental standards. A discussion ensued ending with Vice Chair Kalmar sending the proposed language to other members so as to become more familiar with its provisions and potential consequences.

Mr. Ledgett continue the discussion by informing the Planning Board of a draft Accessory Dwelling Unit legislative initiative at the state house which intended to limit a municipality's home rule regulatory powers insofar as to allow by right accessory dwelling units on residential lots.

The Board ultimately decided to work towards generating support from Town Council and pen a letter to state representatives that would express their concerns over the aforementioned legislative initiatives. Chair Dunkelberger volunteered to draft the letter and Mr. White and Vice Chair Kalmar to be editors. After editing, Chair Dunkelberger expressed that he would share it with the rest of the Planning Board before sending it the letter to intended recipients.

Chair Dunkelberger also commented that he would seek to petition Town Council for support after the letter has been drafted.

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

Mr. McDonough discussed projects to be reviewed at the next Planning Board meeting. A brief discussion occurred concerning proposed zoning amendments, Planning Board priority list and the proposed Marijuana Ordinance before Town Council.

After the discussion, the Planning Board sought for a motion to adjourn.  
Adjournment

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

**The motion carried by roll call vote 7-0-0.**

The Kittery Planning Board meeting of June 10, 2021 adjourned at 7:15 p.m.

Submitted by Bart McDonough, Town Planner on July 20, 2021.

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>.