

1. CALL TO ORDER

2. ROLL CALL

Present: Charles Denault III, Member; Louis Leontakianakos, Member; April Timko, Member; Craig Wilson, Member; Barry Fitzpatrick, Member; Judy Spiller, Vice Chair; Chairman Jeffrey Brake

Absent: Shelly Bishop, Assistant Code Enforcement Officer

Staff Present: (Bob)Robert Marchi, Code Enforcement Officer

3. Pledge of Allegiance

4. Agenda Amendment and Adoption

Mr. Wilson: Suggested amendment #1 and #2 switch places, hearing Mrs. Sylvia Iretta Fitch case first and Mr. Greg Orso's second.

Motion carried 7-0-0

5. Public Hearing

ITEM #1

Sylvia Iretta Fitch, owner, 5 Sunset Drive, Map 5 Lot 4, Residential – Suburban zone, requesting Miscellaneous Variation Request to the terms of Article XXI of Chapter 16.8 to have an intra-family dwelling unit above garage - **Continuation**

Purpose is for sister who is in need. Intra dwelling unit would be an open space studio concept with a kitchenette. Septic would be available along with electric.

Retta received three letters of recommendations for this project. From the owners of 9 Sunset Drive, 12 Sunset Drive and 125 Dennett, Road Kittery, ME 03904.

Code enforcement Officer. After family ceases to dwell, board may require to revert back. Kitchen cooking area be removed. Apply for an ADU, could happen within code department. Standard 21.6.8.21 having been met in inter family dwelling unit. Code enforcement notes that all the codes are met. Building coverage? Less than 20%, second floor of the garage. Special exception 16.6.6 satisfying all the conditions and factors.

Grading plan and posts, pre-construction, driveway is not paved, pump, and stone retaining wall replacement. Code enforcement officer construction submit. Elevation didn't change 16.6.6.1.2.3 excepting the facts and findings.

The board moved to accept the proposal from Sylvia Iretta Fitch, 5 Sunset Drive, Map 5 Lot 4, to have an intra-family dwelling unit above her garage.

Mr. Wilson moved motion, Vice Chair Spiller seconded the motion.

Motion carried 7-0-0

ITEM #2

Greg Orso, applicant, Philip Crawford, owner, 22 Chauncey Creek Road, Map 44 Lot 65A, Residential - Kittery Point Village zone with Shoreland, Resource Protection & Commercial Fisheries/Maritime overlay zones, requesting Administrative Appeal to the terms of Title 16.5.2.E & Title 16.11.C, regarding a Notice of Violation and Order for Correction dated June 14, 2018, for work without a permit. - **Continuation**

Philip Crawford is in the process to get a permit. Pending on code enforcement officer. Has no authority to issue permit. Order of removal or violation of the structure has been issued, work was done illegally. Property doesn't have any other outstanding code violations. Inability to pull a permit, applicant is appealing the decision of the code officer. Applicant didn't receive a permit, because it is not consistent with the code. Stated in the Shoreland zone code, any support or fixed location in the ground the term includes decks. Structure in the shoreland, chapter 16.11.C.G. extension of a dock. KPA rules can not grant a second access to the water. If you have access you can't be granted another one. Once the bank is repaired the structure potentially can come done. Code enforcer has no power to grant a permit. After the fact, the applicant went to the KPA where there is no approval yet, it is believed the idea has been tabled. Code enforcement officer gave applicant almost year to obtain a notice. The Crawford's are here along with property manager. Home was purchased last year, maintaining the property is virtually impossible in attempts to maintain property on its own. Access to water is not the intent because of erosion. Theoretically, no part of the property doesn't have access to the pier and deck. This issue is not about access, objecting to the notice of violation. No part of the pier, ramp or float, is accessible with the 18-foot drop at 90 degrees making the oil deliver impossible anybody attempting to accessing the sight. Can't access side of property without stairs, reasons causing safety

concerns. There is a major erosion issue, not created by the Crawford's, after owning it for a season they just want to maintain property.

Shaun Harryman: stated the traverse of this properties upper deck goes the length of the road and under the platform of original deck. Every time a car goes by sand comes out, which is rotting underneath the building this is an ongoing situation. The erosion poses a serious problem and brings safety concerns to the property and its owners.

Section 16.6.6.B.9 states that owners may have stipulations to maintaining their property. If a determination is made in the hazard to life limb or property entry and operations. Under the ordinance do you have the right to maintain your property? It's not a one-time thing, it's a yearly thing, its seasonally. Racking and cleaning up, propane tank not a one-time fix cribbing most urgent Concerns.

The board motioned to defer opinion to town attorney, the Port Authority or other planning board

Ms. Timko moved motion Mr. Fitzpatrick second

Motion carried 7-0-0

ITEM #3

Timothy Phoenix, Tropic Star Development, LLC, applicant, Pixie, LLC, owner, 286 U.S. Route # 1, Map 31 Lot 4, Commercial – 1 zone, requesting extension to approval per 16.6.5.10.C. - Continuation

Tropic Star Development, applicant was approved for a variance Sept 12th, 2017. The construction is the former Mobile station near Kittery Trading Post. Applicant started the project within six months. However, didn't get far enough to finish in one year. Applicant is asking for a one-year extension. The project is too close to completion. However current constructions seem to be in the shoreland variance zone. DEP comment on any variance, GIS map was incorrect in the middle of the property. Ordinance issued was supposed to have a 250-foot buffer, oppose to a 100-foot buffer. Nature of sight internal review process, email string includes that the DEP has no objection. Nothing is changing about what they plan to do, applicant has received permits and they don't have any issues with sphere of work. Currently, no action on it, resolves the issue for internal review. Board granted

variance, issued permit to demo not a building permit. As far as notifications, DEP talks and sends material, they are the only entity to bring the applicant to court. Because of time or appeal has passed, building permit has not been issued, dealing with at permit side. Error of using the GIS as a reference of shore. Extension of existing approval of ongoing work. Permit has not been issued yet, appeal rights are foreclosed.

Mr. Mitchell: neighbor/resident communicated that the idea of a buffer was great, was not worry about it. Until, sight plans from MHF, convenience store appealed through planning board overlay zone. Even though it didn't work out, it would go to the planning board. Four years and Mr. Mitchell and his family are extremely concerned about the two feet property line. Approximate limit overlay of the sight plan in a blown-up version. Not at all accurate to the representation of what the town GIS is representing. Shoreland overlay, DEP should have been notified and a must variance tossed out. Even if we granted variance there is not extent to void the power of the variance.

Why would any abutter want a building that close to there property. Would be an internal review in the first-place variance to approved with a whole lot of money sunk in. Very unreasonable and unfair to not grant a one-year extension. Section 16.6.5.10. C. on the code use will not prevent orderly of adjacent property or use zones.

The board motioned to grant a one-year extension for a variance approval from Sept 12th, 2017 per Chapter 16.6.5.10.C.

Mr. Wilson moved the motion, Mr. Denault seconded the motion

The motion carried 6-0-1

Previous minutes moved to accept Mr. Wilson and Mr. Denault June 26th, 2018

The hearing for 9/11 Pine trailer park updating their Unit on existing lot in trailer park setback requirements. Never excepted requirements make problematic to establish setbacks into the trailer park beyond code enforcement. Can't maintain 20feet between units.

Farewell to Bob, he's had an exceptional and educational experience.
Bob receives several compliments and will be missed by the committee.
His departure leaves big shoes to fill.

6. Adjournment

Mr. Leontakinakis moved to adjourn the meeting at 9:09 pm.

Ms. Timko seconded the motion.

The motion carried 7-0-0.

Board meeting of Aug 28th, 2018 adjourned at 9:10 p.m.

Submitted by Jordan Williams, Minute Recorder, on September 11th, 2018.

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>.