

CALL TO ORDER

ROLL CALL

Present: Steve Bellantone, Member; Drew Fitch, Member, Ronald Ledgett, Member; Russell White, Member (arrived late 6:03 pm), Mark Alesse, Member; Karen Kalmar, Vice Chair, and Dutch Dunkelberger, Chair

Absent: Mark Alesse, Member

Staff: Jamie Steffen, Town Planner

Advisory: Earledean Wells, Conservation Commission

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – May 21, 2019 Site Walk

Vice Chair moved to accept the minutes of the site walk of May 21, 2019. Seconded by Mr. Fitch.

The motion carried 4-0-1.

PUBLIC COMMENTS

The Chair opened the public comments section.

Paula Cruz, 3 Liberty Lane, asked when she would be able express her concerns about the proposed development at 7 Stoneridge Way. Chair Dunkelberger explained that she would be able to express that either at the public hearing or in writing to the Planning Department.

OLD BUSINESS

ITEM 1 – 16 Trefethen Avenue – Shoreland Development Plan Review

Action: Approve or deny plan. Owners Joseph & Dierdre McEachern and applicant Paul Dobberstein request consideration to reconstruct the existing foundation of a structure located on a 7,341+- sf parcel at 16 Trefethen Avenue (Tax Map 10 Lot 25) in the Residential – Urban (R-U) and the Shoreland Overlay (OZ-SL-250') Zones.

Paul Dobberstein, Ambit Engineering, gave an update on the plans as a result of the site walk. He explained that the proposed work was only to replace portions of the boathouse foundation.

Vice Chair Kalmar asked if he had received the approved flood hazard permit yet. Mr. Dobberstein responded that he had.

Ms. Wells noted the Conservation Commission's concerns regarding the structure elevation relative to recent high tides and storm surges.

There was discussion about the concern and it was noted that there would be openings in the foundation walls to allow the tide to go in and out. It was noted that that the 1st floor was still 4 feet above the mean high water level. The basement is designed to be flood resistant.

Vice Chair Kalmar moved to approve the Shoreland Development Plan application dated 5/24/19 from Joseph and Dierdre McEachern and applicant Paul Dobberstein to reconstruct the existing foundation of a structure located on a 7,341+- sf parcel at 16 Trefethen Avenue (Tax Map 10 Lot 25) in the Residential – Urban (R-U) and the Shoreland Overlay (OZ-SL-250') Zones. Seconded by Mr. Ledgett.

The motion carried 6-0-0.

FINDINGS OF FACT

The Planning Board made the following factual findings and conclusions:

Section 16.3.2.17.D Shoreland Overlay Zone

(1)(d). The total footprint of 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: Residential-Urban (r-U) Zone where the lot is equal to or less than 10,00 square feet, the maximum de-vegetated area is fifty (50) percent.

Finding: The existing devegetated area is 15.2% of the lot area and will remain the same post-construction.

Conclusion: The standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

Section 16.7.3.1 Prohibitions and Allowances

A. Except as otherwise provided in this Article, a nonconforming condition must not be permitted to become more nonconforming.

Finding: This is an existing, nonconforming parcel with an existing structure that is nonconforming to the 100-foot setback from the normal high water line. The proposed reconstruction does not involve an expansion of the nonconformity.

Conclusion: This requirement appears to be met.

Vote of 6 in favor 0 against 0 abstaining

Section 16.7.3.3 Nonconforming Structures

16.7.3.3.B Nonconforming structure repair and/or expansion

Finding: The proposed foundation reconstruction meets the criteria specified in Section 16.7.3.3 A (2) and B. (3) (e) [1].

Conclusion: This requirement appears to be met.

Vote of 6 in favor 0 against 0 abstaining

Section 16.6.6. Basis for Decision

16.6.6.A.2 In hearing appeals/requests under this Section, the Board of Appeals [note: Planning Board is also subject to this section per 16.7.3.3.B.(1) above] must use the following criteria as the basis of a decision:

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: The proposed development does not pose a concern.

Conclusion: The requirement appears to be met.

Vote of 6 in favor 0 against 0 abstaining

Section 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:

Finding: The Planning Board made a positive finding on Criteria 1-10 with all of the criteria appearing to be met.

Vote of 6 in favor 0 against 0 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.

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Vote of 6 in favor 0 against 0 abstaining

NEW BUSINESS

ITEM 2 – 96 Pepperrell Road – Shoreland Development Plan Review

Action: Accept or deny application. Approve or deny plan. Owners/applicants Paul J. & Jessica O. McKeon request consideration for repair/replacement of an existing stone revetment and other site improvements on a 12,333 sf parcel located at 96 Pepperrell Road (Tax Map 27 Lot 47) in the Residential – Kittery Point Village (R-KPV) and the Shoreland Overlay (OZ-SL-250') Zones. Agent Steven Riker, CWS - Ambit Engineering, Inc.

Steve Riker, Ambit Engineering, gave an overview of the proposed project.

After question from Chair Dunkelberger about any proposed exterior changes to the boathouse, Mr. McNamara explained that there would be no geometric changes only new siding, windows, and roof. He described the use of the structure as for storage and recreation.

The Board discussed with Mr. McNamara the nonconforming structure reconstruction provision that relates to removal of any portion of the structure by more than 50% of the market value having to comply with the waterbody setback to the greatest practical extent. Mr. McNamara explained that a building permit had already been issued for the work. Mr. Steffen gave the building permit history as he knew it. There was further discussion regarding the current work to the boathouse and the permit issued. Vice Chair Kalmar asked

staff to find out more details regarding what had been applied for and permitted for work on the boathouse and to inform the Board of what it should do.

Mr. McNamara gave an overview of the site improvements. Ms. Wells questioned why the construction of the 1st floor porch was not included in the application. Mr. Steffen responded that it was listed in the cover letter included in the application. She also inquired about the one time only enlargement of up to 30% and whether that was being exceeded with the proposed improvements to the house. Mr. McNamara responded that they had researched that question and found that they would be within the 30% expansion limitation.

The Board stated it would like to have the application revised to include 1st floor porch construction.

Mr. White moved to accept the shoreland development plan application dated May 2, 2019 from owners/applicants Paul J. & Jessica O. McKeon for repair/replacement of an existing stone revetment and other site improvements on a 12,333 sf parcel located at 96 Pepperrell Road (Tax Map 27 Lot 47) in the Residential – Kittery Point Village (R-KPV) and the Shoreland Overlay (OZ-SL-250') Zones as complete subject to the comments that the Board made that evening. Seconded by Mr. Ledgett.

The motion carried 6-0-0.

Vice Chair Kalmar moved to schedule a site walk for the application for Tuesday, July 2nd at 11 a.m. Seconded by Mr. Ledgett.

The motion carried 6-0-0.

Vice Chair Kalmar moved to schedule a public hearing for the application for the July 11th Planning Board meeting. Seconded by Mr. Ledgett.

The motion carried 6-0-0.

ITEM 3 – 7 Stoneridge Way – Right-of-Way Plan Review

Action: Accept of deny application. Approve of deny plan. Owner/Applicant, Joshua Philbrick requests consideration for an additional dwelling on a 4.89 acre lot on a private right-of-way off Remicks Lane (Tax Map 65 Lot 17) in the Residential Rural (R-RL) Zone.

Joshua Philbrick, owner/applicant gave a history of the process that lead to the request.

Vice Chair Kalmar expressed her concern about the shape of the lot and potential access to large acreage to the rear of the lot relative to the construction of the road. There was discussion about the potential for future development off of the right-of-way. The Board then discussed duplex development relative to the building permit and what would be required for upgrades to the existing right-of-way.

Chair Dunkelberger then opened the floor to comments from the public.

Paula Cruz, 3 Liberty Lane, expressed her concern about the density of development and potential filling of wetlands due to the upgrade of the road. She asked for a site walk and public hearing.

Ken Thumuth, 4 Stoneridge Way, discussed Stoneridge Way and Remicks Lane right-of-ways.

Janice Stanley, 60 Remicks Lane, discussed the road extending from the end of Remicks Lane.

Mr. Philbrick and the Board further discussed his case. He provided further details regarding the construction of the duplex.

Chair Dunkelberger discussed the necessary waivers from the road standards. He discussed with the Board and the applicant potential conditions of approval relative to upgrading the road for future development and forming a private road association for maintenance of Stoneridge Way.

Mr. White moved to continue the right-of-way plan application dated 5/23/19 with associated plan dated August 22, 2018 from owner / applicant, Joshua L. Philbrick for an additional dwelling unit on a 4.89 acre lot on a private right-of-way off Remicks lane (Tax map 65 Lot 17) in the Residential Rural (R-RL) Zone for a period not to exceed 90 days. Seconded by Vice Chair Kalmar.

Mr. Bellantone asked if the applicant had posted a bond for road damage due to the delivery of the house. Mr. Philbrick responded that it was in his contract to fix the road when he was done.

Chair Dunkelberger reiterated that the Board would not act upon the waiver requests until the next meeting. Mr. Philbrick asked for confirmation that his Certificate of Occupancy was tied to the Planning Board approval. Chair Dunkelberger confirmed that it was.

Mike Alessi, 70 Remicks Lane, approached the podium. He discussed the private section of Remicks Lane which he owns. He asked whether a duplex was allowed by zoning. It was confirmed that it was. He discussed wetlands impacts of widening Stoneridge Way. There was discussion between Mr. Alessi and the Board regarding impacts to Remicks Lane from the development.

The motion carried 6-0-0.

ITEM 4 – 35 Thaxter Lane – Shoreland Development Plan Review

Action: Accept or deny application; Approve or deny plan. Owners/Applicants John & Mary Adamik request consideration to construct a single family dwelling on a vacant parcel located at 35 Thaxter Lane (Tax Map 64 Lot 10A) in the Residential – Rural Conservation (R-RC) and Shoreland Overlay (OZ-SH-250') Zone. Agent is Chris Redmond, Mighty Roots.

Chris Redmond, Mighty Roots, gave an overview of the application. He explained that a portion of the proposed dwelling would be in the Shoreland Overlay Zone but outside of the 100 foot setback.

Vice Chair Kalmar raised two issues with the application. The first being the question whether the maximum footprint of a structure requirement of 1500 sf is contained in the ordinance in error as Mr. Steffen had stated. She noted that staff will further research the question. The second issue was one she asked the applicant to address which was there no location on the property other than the location within the Shoreland Overlay Zone where the dwelling could be built.

Mr. Redmond responded by giving the Board the background on the application and previous determinations by the Code Office. He went on to discuss that the owners / applicants have chosen the location primarily for the view. He did note a wetland area in front of the lot which they were trying to avoid. He then discussed the proposed amendments to the overlay zones that may affect the property but acknowledged that they had not been voted on yet. Chair Dunkelberger asked why they could not just flip-flop the house and the driveway. John Adamik, owner / applicant approached the podium. He explained that they chose the location of the house to try to center it on the lot. He further explained that he didn't not want to located it too close to the neighboring property line.

There was discussion amongst the Board and Mr. Steffen regarding the current language in the ordinance and the timing of the adoption of the proposed amendments.

Vice Chair Kalmar moved to accept the Shoreland Development plan application dated May 31, 2019 from owners/applicants John & Mary Adamik to construct a single family dwelling on a vacant parcel located at 35 Thaxter Lane (Tax Map 64 Lot 10A) in the Residential – Rural Conservation (R-RC) and Shoreland Overlay (OZ-SH-250') Zone as complete. Seconded by Mr. Ledgett.

The motion carried 6-0-0.

Mr. White moved to continue the Shoreland Development plan application dated May 31, 2019 from owners/applicants John & Mary Adamik to construct a single family dwelling on a vacant parcel located at 35 Thaxter Lane (Tax Map 64 Lot 10A) in the Residential – Rural Conservation (R-RC) and Shoreland Overlay (OZ-SH-250') Zone for a period not to exceed 90 days. Seconded by Vice Chair Kalmar.

The motion carried 6-0-0.

ITEM 5 – Board Member Items/Discussion

The Board discussed the code updates with the Planner. Chair Dunkelberger requested that Mr. Steffen provide the Board with the most up-to-date versions of the Code. Mr. Steffen gave a brief update on the Recodification process and the Board was informed that the next meeting date of the Kittery Land Issues Committee (KLIC) was coming up on June 17th.

ITEM 7 - Town Planner Items

None.

Adjournment

Mr. White moved to adjourn the meeting.

Mr. Ledgett seconded the motion.

The motion carried 6-0-0.

The Kittery Planning Board meeting of June 13, 2019 adjourned at 8:05 p.m.

Submitted by Jamie Steffen, Town Planner, on August 5, 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>.