

1
2 **Kittery Planning Board**
3 **Findings of Fact**
4 **For 6 Chauncey Creek**
5 **Shoreland Development Plan Review**

UNAPPROVED
M 44 L 71

6
7 **WHEREAS:** Owners and applicants, Beneficial Owner Andy Kaplan with approval from legal owner
8 Creek House Nominee Trust (Matthew J. Downey Trustee) requests consideration to construct a 2’-6” x
9 4’-6” concrete pad for a generator on a nonconforming single family dwelling on a 871 +/- square foot
10 upland section of the parcel located at real property 6 Chauncey Creek Road (Tax Map 44 Lot 71) in the
11 Residential Kittery Point Village (R-KPV), Shoreland Overlay (OZ-SL-250’) and Resource Protection
12 (OZ-RP) zones.

13
14
15 Hereinafter the “Development” and

16
17 Pursuant to the Plan Review meetings conducted by the Planning Board as noted in the plan review notes
18 prepared for 10/13/2022

Shoreland Development Plan Review	November 17 th 2022
Site Walk	None
Public Hearing	None
Approval	TBD

19
20
21 And pursuant to the application and plan and other documents considered to be a part of a plan review
22 decision by the Planning Board in this Finding of Fact consisting of the following (hereinafter the
23 “Plan”):

- 24 1. Shoreland Development Plan Application, received 9/22/2022
- 25 2. Shoreland Development Site Plan dated October 24, 2022 from ELLIOT & ELLIOT

26
27
28 **NOW THEREFORE**, based on the entire record before the Planning Board and pursuant to the
29 applicable standards in the Land Use and Development Code, the Planning Board makes the following
30 factual findings and conclusions:

31
32 **FINDINGS OF FACT**

33
34 **Chapter 16.4 LAND USE ZONE REGULATIONS**

16.4.28.E. Shoreland Overlay Zone

(2) 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:

Finding: The proposed development’s devegetated area is 17.0%, which is under the allowed threshold.

Conclusion: The requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

35
36
37

Chapter 9 MARITIME AND SHORELAND RELATED DEVELOPMENT
Article III Planning Board Shoreland Development Review

16.9.3.F. Findings of Fact

(2) 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:

(a) Maintain safe and healthful conditions;

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

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

(b) Not result in water pollution, erosion or sedimentation to surface waters;

Finding: The proposed development as represented in the plans and application will not result in water pollution and best practices for erosion and sedimentation will be observed.

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

(d) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

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

Conclusion: The requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

(e) Conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

Finding: Shore cover is conserved in accordance with the Code. There are no adverse impacts to visual or actual points of access to waters.

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

(f) Protect archaeological and historic resources;

Finding: There does not appear to be any archaeological nor historic resources impacted.

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

(g) Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;

Finding: The property is not located in the Commercial Fisheries / Maritime Use Zone and will have no adverse effect on commercial fishing nor maritime activities.

<p>Conclusion: This requirement is not applicable.</p>
<p style="text-align: right;">Vote: ___ in favor ___ against ___ abstaining</p>
<p><i>(h) Avoid problems associated with floodplain development and use;</i></p>
<p>Finding: The proposed generator and pad will be placed in the optimal location on the property.</p>
<p>Conclusion: This requirement appears to be met.</p>
<p style="text-align: right;">Vote: ___ in favor ___ against ___ abstaining</p>
<p><i>(i) Is in conformance with the provisions of this code;</i></p>
<p>Finding: The proposed project is in conformance with the provisions of Title 16.</p>
<p>Conclusion: This requirement appears to be met.</p>
<p style="text-align: right;">Vote: ___ in favor ___ against ___ abstaining</p>
<p><i>(j) Be recorded with the York County Registry of Deeds.</i></p>
<p>Finding: A plan suitable for recording once the Surveyor's stamp is added has been prepared by ELLIOT & ELLIOT</p>
<p>Conclusion: As stated in the Notices to Applicant contained herein, a Shoreland Development Plan must be recorded with the York County Registry of Deeds prior to the issuance of a building permit.</p>
<p style="text-align: right;">Vote: ___ in favor ___ against ___ abstaining</p>

38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

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 Application 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 per Title 16.9.3.I.
2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and construction to ensure adequate erosion control and slope stabilization.
3. All Notices to Applicant contained herein (Findings of Fact dated 10/13/2022).

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

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 on final plan.
2. Surveyor's stamp must be on the final plan.

61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94

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 plan.

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) 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 copy of the signed and recorded 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.

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

Vote: ___ in favor ___ against ___ abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON November 17, 2022

Dutch Dunkelberger, Planning Board Chair

Per Title 16.2.12. - 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.