

Dear Mr. McDonough:

per our conversation, we are requesting a 6 month extension of Permit BP 19-94 due to covid 19 delays of contractor services and materials. This is for the completion of Northside Gable/ shed dormer for New Bath.

The majority of the project has been completed as requested and permitted and this is the remaining part of the project.

We initially asked for this through the Inspectional Office however it was remanded to you as the original permit is for property located in the Shoreland Protection Zone which initially required Planning Board review.

Therefore we are requesting that this be placed on the Planning Board agenda for Feb 25, 2021.

Thank you,

Jonathan and Valerie Sobel

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Kittery Planning Board
Findings of Fact
For 12 Moore's Island Lane
Shoreland Development Plan Review

APPROVED

WHEREAS: Owner Jonathan W. Sobel Rev. Trust and applicant Jonathan W. Sobel request consideration to repair and renovate an existing single family dwelling with additional gable, dormers and second story infill on a 41,766 sf parcel located at 12 Moore's Island Lane (Tax Map 27 Lot 35) in the Residential - Kittery Point Village (R-KPV) and Shoreland Overlay (OZ-SH-250') Zones.

Hereinafter the "Development" and

Pursuant to the Plan Review meetings conducted by the Town Planning Board as noted {in the plan review notes prepared for 5/9/2019}

Shoreland Development Plan Review	5/9/2019
Approval	5/9/2019

And pursuant to the application and plan and other documents considered to be a part of a plan review decision by the Planning Board in this Finding of Fact consisting of the following (hereinafter the "Plan"):

1. Shoreland Development Plan Application, received 4/17/2019
2. Standard Boundary Surveys, Anderson Livingston Engineers, Inc., dated October 2000, revised 11/16/2001
3. Existing & Proposed First Floor Plans, Rykerson Architecture, dated 4/12/2019
4. Proposed Second Floor Plan, Rykerson Architecture, dated 4/12/2019
5. Proposed South Elevation Plan, Rykerson Architecture, dated 4/12/2019
6. Proposed West Elevation Plan, Rykerson Architecture, dated 4/12/2019

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

FINDINGS OF FACT

Chapter 16.3 LAND USE ZONE REGULATIONS

16.3.2.17.D Shoreland Overlay Zone

(1)(d) 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 does not include changes to the site and so it does not increase the lot's devegetated area.

Conclusion: The requirement is not applicable.

Vote: 7 in favor 0 against 0 abstaining

Chapter 16.7 GENERAL DEVELOPMENT REQUIREMENTS
Article III Nonconformance

16.7.3.1 Prohibitions and Allowances <i>A. Except as otherwise provided in this Article, a nonconforming conditions must not be permitted to become more nonconforming</i> <u>Finding:</u> The proposed development does not increase nonconformity of any structure or aspect of the lot. <u>Conclusion:</u> The requirement appears to be met. <p style="text-align: right;">Vote: <u>7</u> in favor <u>0</u> against <u>0</u> abstaining</p>
16.7.3.3 Nonconforming Structures 16.7.3.3.B Nonconforming structure repair and/or expansion 16.7.3.3.B (e) [5] [a] <u>Finding:</u> There will be no expansion of the footprint of the structure nor an increase in the height of the existing structure with the proposed renovation. <u>Conclusion:</u> This requirement appears to be met. <p style="text-align: right;">Vote: <u>7</u> in favor <u>0</u> against <u>0</u> abstaining</p>

16.6.6. Basis for Decision <i>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:</i> <i>1. Proposed use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use zones;</i> <i>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;</i> <i>3. Safety, the health, and the welfare of the Town will not be adversely affected by the proposed use or its location; and</i> <i>4. Use will be in harmony with and promote the general purposes and intent of this Code.</i> <u>Finding:</u> The proposed development does not pose a concern. <u>Conclusion:</u> The requirement appears to be met. <p style="text-align: right;">Vote: <u>7</u> in favor <u>0</u> against <u>0</u> abstain</p>

Chapter 10 DEVELOPMENT PLAN APPLICATION AND REVIEW

Article 10 Shoreland Development Review

<p>16.10.10.2 Procedure for Administering Permits</p> <p><i>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:</i></p>
<p><i>1. Maintain safe and healthful conditions;</i></p> <p><u>Finding:</u> The proposed development as represented in the plans and application does not appear to have an adverse impact.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p> <p style="text-align: right;">Vote: 7 in favor 0 against 0 abstaining</p>
<p><i>2. Not result in water pollution, erosion or sedimentation to surface waters;</i></p> <p><u>Finding:</u> Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction to avoid impact on adjacent surface waters.</p> <p><u>Conclusion:</u> This requirement appears to be met</p> <p style="text-align: right;">Vote: 7 in favor 0 against 0 abstaining</p>
<p><i>3. Adequately provide for the disposal of all wastewater;</i></p> <p><u>Finding:</u> The proposed development does not have an impact on the existing wastewater disposal system.</p> <p><u>Conclusion:</u> This requirement is not applicable.</p> <p style="text-align: right;">Vote: 7 in favor 0 against 0 abstaining</p>
<p><i>4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;</i></p> <p><u>Finding:</u> See Finding #2 above.</p> <p><u>Conclusion:</u> The requirement appears to be met.</p> <p style="text-align: right;">Vote: 7 in favor 0 against 0 abstaining</p>
<p><i>5. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;</i></p> <p><u>Finding:</u> Shore cover is conserved in accordance with the Code. There are no points of access.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p> <p style="text-align: right;">Vote: 7 in favor 0 against 0 abstaining</p>
<p><i>6. Protect archaeological and historic resources;</i></p> <p><u>Finding:</u> There does not appear to be any resources impacted.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p> <p style="text-align: right;">Vote: 7 in favor 0 against 0 abstaining</p>
<p><i>7. Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;</i></p> <p><u>Finding:</u> The property is not located in the Commercial Fisheries / Maritime Use Zone.</p> <p><u>Conclusion:</u> This requirement is not applicable.</p>

Vote: 7 in favor 0 against 0 abstaining
<i>8. Avoid problems associated with floodplain development and use;</i>
<u>Finding:</u> The property is located within flood hazard zones, V2 (EL 14) & A2 (EL 11). The proposed construction will not create an adverse impact associated with floodplain management.
<u>Conclusion:</u> This requirement appears to be met.
Vote: 7 in favor 0 against 0 abstaining
<i>9. Is in conformance with the provisions of this code;</i>
<u>Finding:</u> The proposed construction is in conformance with the provisions of the Code.
<u>Conclusion:</u> This requirement appears to be met.
Vote: 7 in favor 0 against 0 abstaining
<i>10. Be recorded with the York county Registry of Deeds.</i>
<u>Finding:</u> A plan suitable for recording will be prepared.
<u>Conclusion:</u> As stated in the Notices to Applicant contained herein, shoreland Development plans must be recorded with the York County Registry of Deeds prior to the issuance of a building permit.
Vote: 7 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 Application and 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. (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. No trees are to be removed without prior approval by the Code Enforcement Officer or the Shoreland Resource Officer. Efforts to protect existing trees must be in place prior to construction.
4. All Notices to Applicant contained herein (Findings of Fact dated 5/9/2019).

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

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 on final Mylar.

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 of 7 in favor 0 against 0 abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON May 9, 2019



Dutch Dunkelberger, Planning Board Chair

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 Mylar.
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) Mylar 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 Mylar copy of the signed original must be submitted to the Town Planning Department.
4. An approved plan for expansion of a non-conforming structure must be recorded by the applicant with the York County Registry of Deeds within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any structures on the parcel, the Shoreland Overlay zone and/or the Resource Protection Overlay zone boundary and evidence of approval by the municipal review authority.
5. 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.

Per Title 16.6.2.A - 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.

