

**Town of Kittery  
Planning Board Meeting  
June 22, 2023**

**ITEM 2 – 16 Ridgewood Drive– Shoreland Development Plan Review**

Action: Accept or deny application. Approve or deny plan: Pursuant to §16.9.3 Shoreland Development Review of the Town of Kittery Land Use and Development Code, Jill and Daniel White request approval to build a 32’x8’ uncovered farmer’s porch on the front of their house located on the property of 16 Ridgewood Drive, Tax Map 20, Lot 2-8, in the Residential-Suburban (R-S) and Resource Protection Zone (OZ-RP).

**PROCESS SUMMARY**

<b>REQUIRED</b>	<b>ACTION</b>	<b>COMMENTS</b>	<b>STATUS</b>
Yes	Staff Determination of Completeness	June 15 <sup>th</sup> , 2022	Completed
No	Site Visit	Optional	Optional
No	Public Hearing	Optional	Optional
Yes	Final Plan Review	TBD	TBD

**PROJECT INTRODUCTION**

16 Ridgewood Drive is located at the end of a cul-de-sac in the Residential – Suburban Zone (R-S) and entirely within the Resource Protection Overlay Zone (RZ-OP). The property is a legally non-conforming lot of 140,377 sq ft, containing a single-family dwelling, detached shed, and driveway that total a devegetated area of 3492 sq ft. The plan proposes building a 32’x8’ farmer’s porch on the front of the property facing the road, totaling 256 sq ft. The porch will have no railings, but gutters currently on the roof will be moved to the new porch.

Per §16.7.3.A.(1), planning board review of the proposal is required due to the lot’s location in a Resource Protection Overlay Zone. The dwelling sits in a flood zone and is within less than 250 feet of the upland edge of more than 2 acres of contiguous wetlands located on the property. A new porch is considered foundation, which when installed on a non-conforming structure must be reviewed to ensure it meets setback requirements to the greatest extent possible.

**APPLICATION & PLAN REVIEW**

Staff reviewed the submitted application and plan and have the following comments:

1. The Shoreland Overlay Zone Ordinance §16.4.28.E.(3).(a). requires new principal and accessory structures to be set back at least 250 feet, horizontal distance, from the upland edge of contiguous wetlands of acres or greater within the Resource Protection Overlay Zone. The dwelling on 16 Ridgewood Drive is an existing legally non-conforming structure. Per § 16.1.8.C.(4).(b).(3).(e).(i), any replacement or expansion of foundation under an existing non-conforming structure is allowed, but must be placed in a way that meets setback requirements to the greatest practical extent. As noted on the plan, the placement of the porch on the south side of the house puts the expansion as far from the wetlands as possible.

- 36 2. **§16.4.28.E(2)** allows 20% of total lot area in the shoreland zoning overlay to be comprised of non-  
 37 vegetated surfaces or structures. With a lot size of 140,377 sq ft, current devegetation sits at 3492  
 38 sq ft, or 2.5%. The proposed plan will increase devegetation to 2.6%, under the allowable limit.

  - 39 a. The site plan notates 1762 sq ft. of “cleared portion.” When asked, the applicant noted this  
 40 refers to lawn covered by grass and shrubs and does not factor into the devegetated portion.
  - 41 b. The devegetation calculation notates a “proposed deck net” square footage to account for  
 42 the 45 sq ft. of existing front porch steps that will be removed and replaced by the porch.  
 43 While the porch is 256 sq ft, the proposed plan would only add 211 sq ft. to the lot.

- 44 3. Assessor data showed that the property is within a flood zone, which is not notated on the site plan  
 45 provided. While this does not impact determination of conformance, staff suggest any final site  
 46 plan be amended to include note of said flood zone.

  - 47 a. Assessor data also noted a protected stream running along the property, but there is no  
 48 identified overlay zone, and its distance to the dwelling is too far to be considered relevant  
 49 in this proposal.

50 **DISCUSSION, NEXT STEPS, AND RECOMMENDATIONS**

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51 Construction of a porch is a low impact development, and expansion of the foundation of a non-conforming  
 52 structure is allowed so long as the proposal meets setback requirements to the greatest practical extent,  
 53 which this appears to do. Staff suggest approval of the plan on the condition that the final site plan notate  
 54 any identified flood hazard zones within the property. The Planning Board should discuss the plan and  
 55 determine if it meets the requirements to accept the plan, and/or direct the applicant to make any changes  
 56 that are necessary.

57 **RECOMMENDED MOTIONS**

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58 Below are motions for the Planning Board’s consideration:

59 ***Motion to accept the application***

60 Move to accept the plan for a shoreland development application from owner/applicants Jill and Daniel  
 61 White to build an uncovered farmer’s porch on the south side of their house on a legally non-conforming  
 62 lot within the base zone setback of the Resource Protection Overlay Zone located on real property with the  
 63 address of 16 Ridgewood Drive, Tax Map 20, Lot 2-8, in the Residential – Suburban (R-S), and Resource  
 64 Protection Overlay Zone (RZ-OP).

65 ***Motion to conditionally approve the application***

66 Move to approve (with the conditions listed by staff above) the plan for a shoreland development application  
 67 from owner/applicants Jill and Daniel White to build an uncovered farmer’s porch on the south side of their  
 68 house on a legally non-conforming lot within the base zone setback of the Resource Protection Overlay  
 69 Zone located on real property with the address of 16 Ridgewood Drive, Tax Map 20, Lot 2-8, in the  
 70 Residential – Suburban (R-S), and Resource Protection Overlay Zone (RZ-OP).

**DRAFT**  
**M 20 L 2-8**

1  
2 **Kittery Planning Board**  
3 **Findings of Fact**  
4 **For 16 Ridgewood Drive**  
5 **Shoreland Development Plan Review**

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6  
7 **WHEREAS:** Applicants Jill and Daniel White request approval to build a 32'x8' uncovered farmer's porch  
8 on the front of their house located on the property of 16 Ridgewood Drive, Tax Map 20, Lot 2-8, in the  
9 Residential-Suburban (R-S) and Resource Protection Zone (OZ-RP).

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11 Pursuant to the Plan Review meetings conducted by the Planning Board as noted in the plan review notes  
12 prepared for 6/22/2023.

13

Shoreland Development Plan Staff Review	June 15 <sup>th</sup> 2023
Site Walk	None
Public Hearing	None
Approval	June 22 <sup>nd</sup> 2023

14  
15 Pursuant to the application and plan and other documents considered to be a part of a plan review decision  
16 by the Planning Board in this Finding of Fact consisting of the following (hereinafter the "Plan"):

- 17  
18 1. Shoreland development plan application received 3/23/2023 from Jill and Daniel White.  
19 2. Updated Shoreland Development Site Plan received 6/13/2023 from Survey Nathan C Amsden.  
20

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

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25 **FINDINGS OF FACT**

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27 **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 property is legally non-conforming with a devegetated area of 2.5%. The proposed plan will increase devegetation to 2.6%, which is within the allowable limit.

Conclusion: The requirement appears to be met.

**Vote: \_\_\_ in favor \_\_\_ against \_\_\_ abstaining**

28  
29 **Chapter 9 MARITIME AND SHORELAND RELATED DEEVELOPMENT**

30 **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:*

<p><u>Finding:</u> The plan does not appear to have any negative impact on the health and safety of the applicant or adjacent neighbors and resources.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p>	<p><b>Vote: ___ in favor ___ against ___ abstaining</b></p>
<p><i>(b) Not result in water pollution, erosion or sedimentation to surface waters:</i></p> <p><u>Finding:</u> The proposed development as represented in the plans and application does not appear to pose any risk to water pollution or erosion.</p> <p><u>Conclusion:</u> This requirement appears to be met..</p>	<p><b>Vote: ___ in favor ___ against ___ abstaining</b></p>
<p><i>(c) Adequately provide for the disposal of all wastewater:</i></p> <p><u>Finding:</u> The proposed development does not include wastewater systems.</p> <p><u>Conclusion:</u> This requirement does not appear applicable.</p>	<p><b>Vote: ___ in favor ___ against ___ abstaining</b></p>
<p><i>(d) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat:</i></p> <p><u>Finding:</u> The development proposes to build as far from the adjacent resource as possible. Installing gutters along the porch facing away from nearby wetlands appears to reduce the chance of runoff contamination into the resource.</p> <p><u>Conclusion:</u> The requirement appears to be met.</p>	<p><b>Vote: ___ in favor ___ against ___ abstaining</b></p>
<p><i>(e) 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 adverse impacts to visual or actual points of access to waters.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p>	<p><b>Vote: ___ in favor ___ against ___ abstaining</b></p>
<p><i>(f) Protect archaeological and historic resources:</i></p> <p><u>Finding:</u> There appear to be neither archaeological nor historic resources impacted.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p>	<p><b>Vote: ___ in favor ___ against ___ abstaining</b></p>
<p><i>(g) 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 and will have no adverse effect on commercial fishing nor maritime activities.</p>	

<p><u>Conclusion:</u> This requirement does not appear applicable.</p>
<p style="text-align: right;"><b>Vote: ___ in favor ___ against ___ abstaining</b></p>
<p><i>(h) Avoid problems associated with floodplain development and use:</i></p>
<p><u>Finding:</u> The proposed development will be required to meet the applicable base elevation standards to obtain a building permit. Significant impacts of floodwaters are not anticipated as a result of this plan.</p>
<p><u>Conclusion:</u> This requirement appears to be met.</p>
<p style="text-align: right;"><b>Vote: ___ in favor ___ against ___ abstaining</b></p>
<p><i>(i) Is in conformance with the provisions of this code:</i></p>
<p><u>Finding:</u> The proposed project is an existing non-conforming system, following rules of expansion under the nonconformance provisions of Title 16. Proposed improvements will not increase the property's non-conformance to the code.</p>
<p><u>Conclusion:</u> This requirement appears to be met.</p>
<p style="text-align: right;"><b>Vote: ___ in favor ___ against ___ abstaining</b></p>
<p><i>(j) Be recorded with the York County Registry of Deeds:</i></p>
<p><u>Finding:</u> A plan suitable for recording (with amendments) once the Surveyor's stamp is added has been prepared by land surveyor Nathan C Amsden.</p>
<p><u>Conclusion:</u> 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;"><b>Vote: ___ in favor ___ against ___ abstaining</b></p>

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32 Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review  
33 standards for approval and, therefore, the Planning Board approves the Shoreland Development Plan  
34 Application subject to any conditions or waivers, as follows:

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36 **Waivers:** None

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38 **Conditions of Approval** (to be depicted on final plan to be recorded):

- 39  
40 1. No changes, erasures, modifications or revisions may be made to any Planning Board approved  
41 final plan per Title 16.9.3.I.
- 42 2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated  
43 with site and construction to ensure adequate erosion control and slope stabilization.
- 44 3. All Notices to Applicant contained herein (Findings of Fact dated 6/22/2023).

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

- 47 1. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer  
48 Review Engineer, and submit for Staff review prior to presentation on final plan.
- 49 2. Surveyor's stamp must be on the final plan.

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**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.

5. Prior to construction, applicant shall obtain any and all permits required by the code enforcement office to complete proposed work.

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.

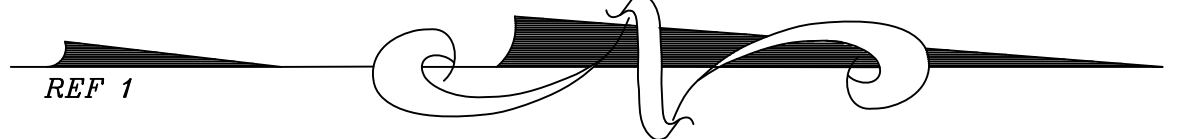
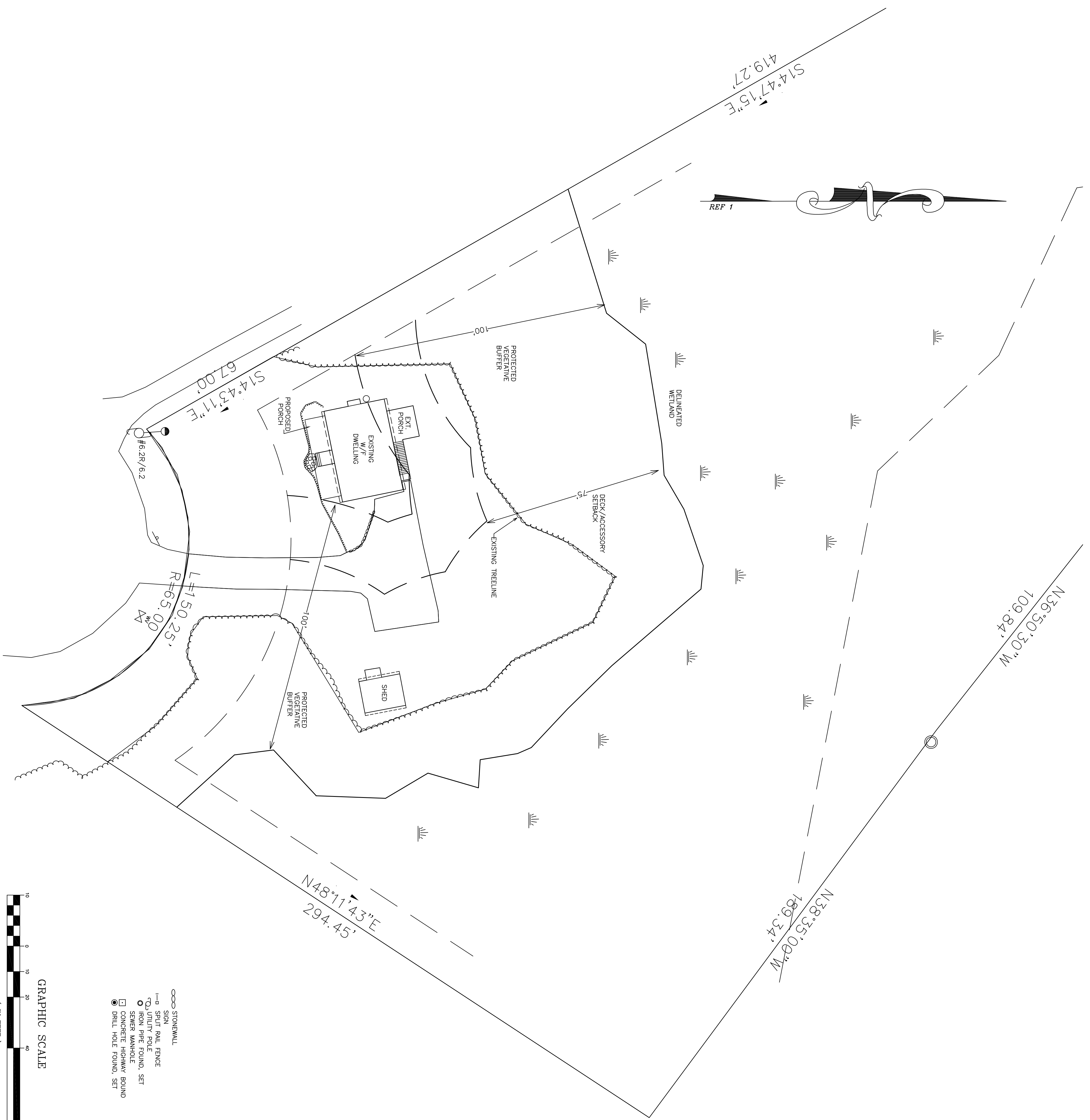
**Vote: \_\_\_ in favor \_\_\_ against \_\_\_ abstaining**

APPROVED BY THE KITTERY PLANNING BOARD ON \_\_\_\_\_

\_\_\_\_\_  
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.





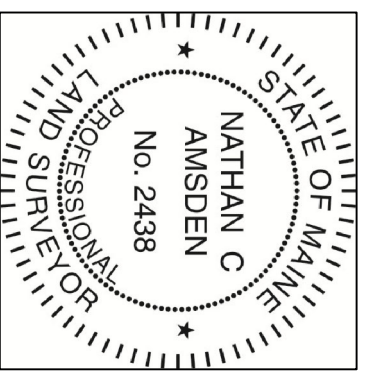
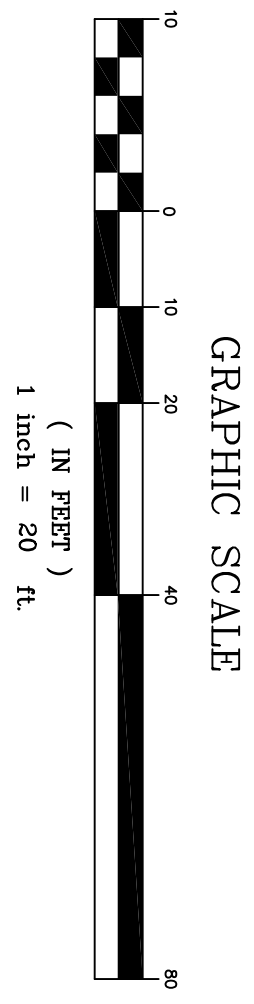
1. THIS PLAN DEPICTS THE SITE DATA FOR A PROPOSED PORCH AT 16 RIDGEWOOD DR, KITTERY, ME.
2. THE SITE IS IDENTIFIED IN THE KITTERY ASSESSING DATABASE AS MAP 20 LOT 2-8.
3. THE PROPERTY IS LOCATED IN THE R-S RESIDENTIAL SUBURBAN ZONE, AND THE RESOURCE PROTECTION ZONE, DISTRICT REQUIREMENTS ARE:  
 MIN. LOT SIZE 40000 S.F.  
 FRONT YARD 40'  
 SIDE/REAR YARD 15'  
 COVERAGE 20%  
 BUILDING HEIGHT 35'  
 LOTS WITHIN THE RESOURCE PROTECTION ZONE MUST RESERVE A 100' BUFFER FROM THE UPLAND EDGE OF THE WETLAND.
4. THE ENTIRE SITE FALLS WITHIN THE RESOURCE PROTECTION OVERLAY. DEVEGETATED CALCULATIONS ARE AS FOLLOWS:

LOT	140,377 S.F.
CLEARED PORTION	1762 S.F. = 1%
HOUSE AND STEPS	923 S.F.
DECK AND STAIRS	189 S.F.
WALKWAY	213 S.F.
WIREMAY	213 S.F.
SHED	228 S.F.
DEVEGETATED TOTAL	3492 S.F. = 2.5%
PROPOSED DECK NET	256-45 = 211 S.F.
PROPOSED DEVEGETATED TOTAL	3703 S.F. = 2.6%

**REFERENCE PLANS:**

1. "MODIFICATION TO APPROVED" BY FRANK EMERY, DATED JAN 20, 1994 AND RECORDED AT YCRD BK 222 P 9.
2. "MODIFICATION PLAN" RECORDED AT YCRD BK 206 P 30.
3. "RIDGEWOOD ESTATES SUBDIVISION PLAN" RECORDED AT YCRD BK 192 P 20.

- STONEMWALL
- SIGN
- SPLIT RAIL FENCE
- UTILITY POLE FOUND SET
- SINKER MANHOLE
- CONCRETE HIGHWAY ROUND
- DRILL HOLE FOUND, SET



**RESOURCE PROTECTION PLAN**

DANIEL & JILL WHITE  
 16 RIDGEWOOD DR,  
 KITTERY, ME

PREPARED FOR  
 DANIEL & JILL WHITE  
 16 RIDGEWOOD DR  
 KITTERY, ME 03904

By  
 AMSDEN FIELD SURVEY  
 799 MAIN ST.  
 ELIOT, MAINE 03903

1"=20'  
 DEVEGETATED BLOCK 6/12/23  
 FRONT PORCH 9/13/23  
 DATE 3/24/22