

**Town of Kittery Maine
 Town Planning Board Meeting
 December 10, 2020**

76 Chauncey Creek Road—Shoreland Development Plan Review

Action: Accept or deny plan as complete; continue application to a subsequent meeting, schedule site walk and/or public hearing; approve or deny plan: Pursuant to §16.7.3.3.B *Nonconforming structure repair and/or expansion* and §16.10.3.4 *Shoreland Development Review* of the Town of Kittery Land Use Development Code, owner/applicant Sarah Bartlett Upton Rollins requests approval to expand a legally nonconforming dwelling unit on a legally nonconforming lot by 440-sf within the base zone setback of the Shoreland Overlay Zone located on real property with an address of 76 Chauncey Creek Road, Tax Map 45, Lot 66, in the Residential-Kittery Point Village (R-KPV) zone and the Shoreland (SL-OZ-250) and Resource Protection (OZ-RP) Overlay Zones.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
No	Sketch Plan	Not pursued	No filing on record
No	Site Visit	At the Board's discretion	To be determined—PB discretion
Yes	Completeness/Acceptance	Scheduled for the 12/10/20	Ongoing
No	Public Hearing	At the Board's discretion	To be determined—PB discretion
Yes	Plan Approval		Pending

Applicant: Plan Review Notes reflect comments and recommendations regarding applicability of Town Land Use Development Code, and standard planning and development practices. Only the PB makes final decisions on code compliance and approves, approves with conditions or denies final plans. Prior to the signing of the approved Plan any **Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and, when applicable, recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.** As per Section 16.4.4.13 - Grading/Construction Final Plan Required. - Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.

Project Introduction

76 Chauncey Creek Road (“Project”) is situated on the northern bank of Chauncey Creek located within the Residential—Kittery Point Village (R-KPV) zone and overlaid by the Shoreland (SL-OZ-250) and, in part, the Resource Protection (RP-OZ) zones. The Project’s current conditions comprise a (1,653-sf) single-family dwelling unit with a detached garage, minor accessory structures and a dock extending into Chauncey Creek. Abutting and in the general vicinity of the Project are single-family dwelling units consisting of a similar nature.

As mentioned above, the Project’s existing conditions reveal both a legally nonconforming lot and dwelling unit, as the lot’s area totals 20,950-sf and the single-family dwelling unit occupies land below the 25-ft. setback to an area below the 75-ft. setback within the Shoreland Overlay Zone. As time progressed, the lot was developed piecemeal: a garage was constructed in the front yard at a date that appears to have preceded the Town’s enactment of its zoning ordinance; a 75-sf addition, which received Zoning Board of Appeals (“BOA”) approval on August 2, 1989; a dock and pier, which was approved by the Kittery Port Authority (“KPA”) on October 12, 2012, and a 84-sf shed, which initially was approved administratively by the Code Enforcement Officer, pursuant to §16.3.2.17.D(2)(e) in 2015; however, no record of a building permit for the shed was on file. Moreover, it was discovered that the shed exceeded the size limitation as prescribed in the aforementioned ordinance and ultimately required Planning Board approval if it were to remain. On September 10, 2020, the applicant filed for an approval after-the-fact shoreland development plan application to allow the 84-sf shed and a 269-sf patio to remain in situ and was denied categorically by the

Board, as the patio fell short of fulfilling the 75-ft setback requirement¹ and the shed failed to satisfy the dimensional requirement as well as the test within the zoning provision requiring demonstration that the shed was the only accessory structure on the lot.^{2,3}

The applicant now appears in front of the Planning Board requesting approval for a shoreland development plan to expand a legally nonconforming structure by adding a 440-sf addition to the dwelling unit's front façade and to construct walking paths both in front and behind the house. The application includes the removal of both the patio and shed as required in Board's Findings of Fact, dated September 24, 2020, and incorporates areas of revegetation to offset the addition devegetation added to the lot. The Board is tasked to determine if the application satisfies the requirements under §16.3.2.3.D, §16.3.2.17, §16.7.3.3.B, and §16.10.8.3(D) and any other zoning ordinance relative thereto.

Analysis and Staff Commentary

During the course of reviewing a shoreland development plan proposing to expand a legally non-confirming structure within the Shoreland Overlay Zone, the Board, by in large, is charged to analyze three specific aspects of Title 16 to determine compliance: building lot coverage [16.3.2.3.D(2)(e)]; devegetation rate [16.3.2.17.D(1)(d)]; and the structure's expansion extent, type, and proximity and direction to the protected resource [§16.7.3.3(B)].

Building Lot Coverage and Devegetation

The Board is tasked to determine if the Project adheres not only the distinct dimensional standards for the Kittery Point Village zoning district enumerated under §16.3.2.3.D(2) *Dimensional standards*, but of more import for shoreland development plan applications, if the application demonstrates compliance with the building coverage⁴ and devegetation standards. Pursuant to §16.3.2.3.D(2)(e) *Maximum building coverage*, the lot is permitted to have a 20% building coverage rate within the Kittery Point Village zoning district. The Project's lot totals 20,950-sf in area and currently has 2,489-sf of building coverage, yielding an existing building coverage rate of 11.9%. That said, the building coverage rate requires a revision as the shed was an existing unpermitted structure; therefore, from a regulatory prospective, it never existed and shan't be counted towards the existing building coverage rate.

Considering this, the effective building coverage area is reduced to 2,405-sf, with a corresponding coverage rate of 11.4%. As regards the proposed expansion, the plan seeks to add a 440-sf extension to the dwelling unit. This expansion would increase the lot's building coverage rate from 11.4% to 13.5%, which is well under the 20% coverage limit and compliant with §16.3.2.3.D(2)(e).

Turning to the Project's devegetation rate, the rate requires a revision as well: the patio located behind the dwelling unit and shed to the west thereof were installed illegally and are effectively precluded from counting towards the devegetation rate. Nevertheless, the space underneath the shed and patio require revegetation, which the plan proposes to effect. Mindful of the exclusion of the illegal patio and shed from

¹ §16.3.2.17.D(2)(b), Town of Kittery Land Use and Development Code: *Accessory patios or decks no larger than 500 square feet in area must be set back at least 75 feet from the normal high-water line of any water bodies, tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater wetland. Other patios and decks must satisfy the normal setback required for principal structures in the Shoreland Overlay Zone*

² 16.3.2.17.D (2)(e), Town of Kittery Land Use and Development Code: *On a nonconforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure must not exceed 80 square feet in area nor eight feet in height and must be located as far from the shoreline or tributary stream as practical and meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case will the structure be allowed to be situated closer to the shoreline or tributary stream than the existing principal structure.*

³ It was the opinion of the Board that the garage was the initial accessory structure of the lot and its presence prohibited additional accessory structures from being built within the base zone setback of the Shoreland Overlay Zone.

⁴ §16.2.2 Definitions of the Town of Kittery Land Use and Development Code; Building Coverage: *The aggregate or the maximum horizontal area of all buildings on the lot including accessory buildings but excluding cornices, eaves or gutters projecting not more than 24 inches. Pet shelters, playground equipment, tree houses, and structures that are not also "buildings" are not used in calculating building coverage. Additionally, this is not to be construed to mean the aggregate of floors in a multilevel building.*

the existing devegetation calculation, the revised existing devegetation area sums to 3,888-sf, which amounts to an 18.5% devegetation rate. The plan proposes to devegetate 729-sf while revegetating the lot by 434-sf. After factoring the revegetation, the offset sums a devegetation rate of 3,662-sf, or (17.5%). Accordingly, pursuant to §16.3.2.17.D(1)(d), the proposed shoreland plan complies with the devegetation standard as the proposed activity falls 2.5% below the prescribed threshold.

Expansion of a Nonconforming Structure

The main purpose of this application is to expand a legally nonconforming structure by 395-sf. The site plan, again, requires a revision to the expansion calculation since the proposed steps and landing are exempt, pursuant to §16.7.3.3.B(3)(d). As a result, the total expansion equals 440-sf in area. As stated in the Project Introduction, the applicant received approval from the BOA on August 2, 1989, to expand a nonconforming structure by 75-sf. The August 2, 1989 expansion must be counted separately from the current expansion and added against the permitted expansion rate, pursuant to §16.7.3.3.B(3)(e)[5][a].⁵ With this in mind, the original area of the dwelling unit was 1,578-sf and the 75-sf expansion yielded a 4.7% increase in footprint. The current proposed expansion yields a 27.4% rate of increased area, placing the grand total to 32.1%, which is over the allowed percentage of expansion. Nevertheless, §16.7.3.3.B(3)(e)[5][a] allows for the ‘maximum combined total footprint that existed on January 1, 1989’. This means that the garage may be included in the 30% expansion rate since it’s a legally nonconforming structure. Given that information, an extra 465-sf may be added to the total pre-existing area total, thereby yielding a new legally nonconforming area of 2,043-sf and expansion rate of 25.3%.

The application also proposes a walkway from the rear of the dwelling unit to the dock along Chauncey Creek, measuring 2- to 1-ft in length. This type of walkway seems to be permitted, pursuant to 16.3.2.17.D(2)(g)⁶. Also proposed is a 61-sf patio that encloses the front steps of the expansion. It appears approximately 2/3rds of the patio is below the 75-ft setback, which is not permitted, pursuant to 16.3.2.17.D(2)(b). The portion below the 75-ft setback must be removed from the plan in order to for the Board to approve the project.

Height

The proposed height of the expansion appears to be in conformance with §16.7.3.3.B(3)(d) since highest point of the existing structure is 26-ft and the proposed expansion will measure only 21-ft at its apex.

Septic System

It appears that there is an antiquated septic system located to the west of the proposed expansion. The exact location is unknown, but its location shall be confirmed prior to the issuance of a building permit from the Code Enforcement Officer to determine compliance with local and state subsurface wastewater disposal regulations.

⁵§16.7.3.3.B(3)(e)[5][a] of the Town of Kittery Land Use and Development Code: *For structures located less than the base zone setback from the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet, or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any portion of a structure that is located in the base zone setback may not be made greater than 20 feet, or the height of the existing structure, whichever is greater.*

⁶ 16.3.2.17.D(2)(g) of the Town of Kittery Land Use and Development Code: *Stairways or similar structures may be allowed with a permit from the Code Enforcement Officer to provide shoreline access in areas of steep slopes or unstable soils, provided the:*

[1] *Structure is limited to a maximum of four feet in width;*

[2] *Structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S. § 480-C); and*

[3] *Applicant demonstrates that no reasonable access alternative exists on the property.*

Waivers

At this time, the proposed shoreland development plan is not seeking any relief from the Planning Board.

Application Completeness

The application as presented appears to be complete and may be accepted by the Board if they so choose.

Conclusion

It appears that the proposed expansion and walkways comply with the zoning standards within Title 16. The only item that contravenes the zoning ordinance is the proposed patio located in front of the proposed expansion. It is recommended that the site plan be amended to depict the patio outside the 75-ft. setback or removed outright therefrom. This can be done through a condition of approval, or the Board can have the applicant return to the Board with the revised site plan before moving forward with a motion to approve.

Planning Board Procedural Steps

After the Board has been presented with the application and deliberation has exhausted, the following procedural sequence must take place:

1. Plan acceptance: Before the board can move on the application, a vote must occur to accept the plan.
2. Thereafter, the Board needs to determine if a site visit, public hearing, or both need to occur. If a site walk is necessary, the Board should consider scheduling it some time in the next two week. As regards the public hearing, if desirable, it should be scheduled for the next Planning Board meeting, January 14, 2020.
3. If a public hearing is not elected to take place, the Board should consider the following:
 - a. to move to continue the application to a subsequent meeting if more time for consideration is required by the Board,
 - b. approve with or without conditions; or
 - c. deny the application—motion should be made in the affirmative (see below).

Recommended Motions

Below are recommended motions for the Board's use and consideration:

Motion to continue application

Move to continue the shoreland development plan application to the January 14, 2021 Planning Board meeting from owner/applicant Sarah Bartlett Upton Rollins requesting approval to expand a legally nonconforming dwelling unit on a legally nonconforming lot by 440-sf within the base zone setback of the Shoreland Overlay Zone located on real property with an address of 76 Chauncey Creek Road, Tax Map 45, Lot 66, in the Residential-Kittery Point Village (R-KPV) zone and the Shoreland (SL-OZ-250) and Resource Protection (OZ-RP) Overlay Zones.

Motion to schedule a site walk

Move to schedule a site walk on _____, 2020, for a shoreland development plan application from owner/applicant Sarah Bartlett Upton Rollins requesting approval to expand a legally nonconforming dwelling unit on a legally nonconforming lot by 440-sf within the base zone setback of the Shoreland Overlay Zone located on real property with an address of 76 Chauncey Creek Road, Tax Map 45, Lot 66, in the Residential-Kittery Point Village (R-KPV) zone and the Shoreland (SL-OZ-250) and Resource Protection (OZ-RP) Overlay Zones..

Motion to schedule public hearing

Move to schedule a public hearing on the January 14, 2021 Planning Board meeting for a shoreland development plan application from owner/applicant Sarah Bartlett Upton Rollins requesting approval to expand a legally nonconforming dwelling unit on a legally nonconforming lot by 440-sf within the base zone setback of the Shoreland Overlay Zone located on real property with an address of 76 Chauncey Creek Road, Tax Map 45, Lot 66, in the Residential-Kittery Point Village (R-KPV) zone and the Shoreland (SL-OZ-250) and Resource Protection (OZ-RP) Overlay Zones..

Motion to approve with conditions

Move to approve the shoreland development plan application from owner/applicant Sarah Bartlett Upton Rollins requesting approval to expand a legally nonconforming dwelling unit on a legally nonconforming lot by 440-sf within the base zone setback of the Shoreland Overlay Zone located on real property with an address of 76 Chauncey Creek Road, Tax Map 45, Lot 66, in the Residential-Kittery Point Village (R-KPV) zone and the Shoreland (SL-OZ-250) and Resource Protection (OZ-RP) Overlay Zones with the following conditions:

1. Prior to endorsement of the final plan, the applicant shall submit a revised shoreland development plan to the Town Planner for review and approval with the correct standards, existing and proposed, as describe in the December 10, 2020 Planner Review Notes document.
2. Prior to endorsement of the final plan, the applicant shall submit a revised shoreland development plan to the Town Planner for review and approval illustrating compliance with 16.3.2.17.D(2)(b) and with the correct corresponding devegation and dimensional standards.

Motion to deny (should be in the affirmative as stated below.)

Move to approve the shoreland development plan application from owner/applicant Sarah Bartlett Upton Rollins requesting approval to expand a legally nonconforming dwelling unit on a legally nonconforming lot by 440-sf within the base zone setback of the Shoreland Overlay Zone located on real property with an address of 76 Chauncey Creek Road, Tax Map 45, Lot 66, in the Residential-Kittery Point Village (R-KPV) zone and the Shoreland (SL-OZ-250) and Resource Protection (OZ-RP) Overlay Zones

**Kittery Planning Board
 Findings of Fact
 For 76 Chauncey Creek Road
 Shoreland Development Plan Review**

UNAPPROVED

M4 L81

WHEREAS: Owner/applicant Jeffrey Kilty requests approval for a shoreland development plan proposing to expand the use of an existing restaurant by 500-sf by converting an existing retail space with no proposed exterior structural expansion on a legally conforming lot with a legally non-conforming structure within the Shoreland Overlay Zone located on real property with the address of 70-78 Wallingford Square, Tax Map 4 Lot 81, in the Mixed-Use-Kittery Foreside (MU-KF) Zone and Shoreland (OZ-250_SL) and Resource Protection (OZ-RP) Overlay Zones.

REQ'D	ACTION	COMMENTS	STATUS
No	Sketch Plan	Not pursued	Not applicable
No	Site Visit	At the Board's discretion	To be determined— PB discretion
Yes	Completeness/Acceptance	Scheduled for the December 10, 2020 meeting	Ongoing
No	Public Hearing	At the Board's discretion	To be determined— PB discretion
Yes	Plan Approval	May take place at the December 10, 2020 meeting	Pending

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, dated 5/28/2020
2. Shoreland Development Site Plan, Easterly Surveying Inc., dated 5/20/20 and last revised 11/18, 2020

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

<p>16.3.2.3.D(e) Standard: <i>Maximum building coverage: 20%</i> Findings: The proposed shoreland development plan illustrates a building coverage rate of 13.4% Conclusion: The standard appears to be met.</p>
<p>Vote: <u> </u> in favor <u> </u> against <u> </u> abstaining</p>
<p>16.3.2.17.D(1)(d) Standard: <i>The total footprint of devegetated area must not exceed 20% of the lot area located within the Shoreland Overlay Zone, except in the following zones:</i> <i>[1] Mixed-Use – Badgers Island (MU-BI) and Mixed-Use – Kittery Foreside (MU-KF) Zones, where the maximum devegetated area is 60%. The Board of Appeals may approve a miscellaneous appeal application to increase allowable devegetated area in the Mixed-Use –</i></p>

<p><i>Badgers Island (MU-B1) Zone to 70% where it is clearly demonstrated that no practicable alternative exists to accommodate a water-dependent use.</i></p> <p><i>[2] Commercial (C1, C-2, C-3), Business – Local (B-L and B-L1) and Industrial (IND) Zones where the maximum devegetated area is 70%.</i></p> <p><i>[3] Residential – Urban (R-U) Zone where the lot is equal to or less than 10,000 square feet, the maximum devegetated area is 50%.</i></p> <p>Findings: The proposed shoreland development plan depicts a devegetation rate of 17.5%</p> <p>Conclusion: The standard appears to be met.</p>
Vote: __ in favor __ against __ abstaining
16.3.2.17.D(2)(b)
<p>Standard: <i>Accessory patios or decks no larger than 500 square feet in area must be set back at least 75 feet from the normal high-water line of any water bodies, tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater wetland. Other patios and decks must satisfy the normal setback required for principal structures in the Shoreland Overlay Zone.</i></p> <p>Findings: The proposed shoreland development proposes a patio that is mostly below the 75-ft setback and shall be removed from the plan or reconstituted not to encroach into the 75-ft setback from the high-water line of Chauncey Creek.</p> <p>Conclusion: The standard appears to be met</p>
Vote: __ in favor __ against __ abstaining
16.3.2.17.D(2)(g)
<p>Standard: <i>Stairways or similar structures may be allowed with a permit from the Code Enforcement Officer to provide shoreline access in areas of steep slopes or unstable soils, provided the:</i></p> <p><i>[1] Structure is limited to a maximum of four feet in width;</i></p> <p><i>[2] Structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S. § 480-C); and</i></p> <p><i>[3] Applicant demonstrates that no reasonable access alternative exists on the property</i></p> <p>Findings: The proposed shoreland development plan depicts a walkway emanating from the back egress of the dwelling unit to the foot of the dock that is located in Chauncey Creek. The proposed walkway does not appear to cross the high-water mark.</p> <p>Conclusion: The standard appears to be met.</p>
Vote: __ in favor __ against __ abstaining

Chapter 16.7 GENERAL DEVELOPMENT REQUIREMENTS
Article III Nonconformance

16.7.3.1 Prohibitions and Allowances
<p>Standard: <i>A. Except as otherwise provided in this Article, a nonconforming condition must not be permitted to become more nonconforming</i></p> <p>Finding: The applicant is proposing an expansion to a legally nonconforming structure that complies with the standards within the Article.</p> <p>Conclusion: The requirement appears to be met.</p>
Vote: __ in favor __ against __ abstaining

16.7.3.3.B(3)(e)[5][a]
Standard: <i>For structures located less than the base zone setback from the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet, or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any portion of a structure that is located in the base zone setback may not be made greater than 20 feet, or the height of the existing structure, whichever is greater.</i>
Finding: The applicant is proposing an expansion of the legally nonconforming structure that totals 515-sf, which is 32.1% increase in area from the original footprint that existed on January 1, 1989. The increase is above the 30% threshold, but below the permitted 1,000-sf limit.
Conclusion The requirement appears to be met.
Vote: ___ in favor ___ against ___ abstaining

Chapter 10 DEVELOPMENT PLAN APPLICATION AND REVIEW
Article X Shoreland Development Review

16.10.10.2 Procedure for Administering Permits
<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>
Standard: <i>1. Maintain safe and healthful conditions;</i>
Finding: The proposed development as represented in the plans and application does not appear to have an adverse impact.
Conclusion: This requirement appears to be met.
Vote: ___ in favor ___ against ___ abstaining
Standard: <i>2. Not result in water pollution, erosion or sedimentation to surface waters;</i>
Finding: The proposed development appears to be designed in a manner that does not result in an increase of water pollution, erosion, or sedimentation to surface waters
Conclusion: This requirement appears to be met.
Vote: ___ in favor ___ against ___ abstaining
Standard: <i>3. Adequately provide for the disposal of all wastewater;</i>
Finding: The proposed development does not include an increase in the number of dwelling units, thereby not requiring an upgrade to the subsurface wastewater disposal system at this time.
Conclusion: This requirement appears to be met.
Vote: ___ in favor ___ against ___ abstaining
Standard: <i>4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;</i>
Finding: The proposed development does not appear to have an adverse impact.
Conclusion: This requirement appears to be met.

Vote: __ in favor __ against __ abstaining
Standard: 5. <i>Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;</i>
Finding: The application is proposing a small walkway from the rear egress of the dwelling unit to the dock, which will prevent further erosion and vegetation degradation of shore cover by pedestrian traffic.
Conclusion: This requirement appears to be met.
Vote: __ in favor __ against __ abstaining
Standard: 6. <i>Protect archaeological and historic resources;</i>
Finding: There appears to be no archaeological and historical resources located on the lot.
Conclusion: This requirement appears to be met.
Vote: __ in favor __ against __ abstaining
Standard: 7. <i>Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;</i>
Finding: The application is proposing a building expansion that is oriented away from Chauncey Creek, and the proposed walkway improves access to the lot's dock. Both elements of the development appear not to affect any commercial fishing or maritime activities, nor the district that they are active.
Conclusion: This requirement appears to be met.
Vote: __ in favor __ against __ abstaining
Standard: 8. <i>Avoid problems associated with floodplain development and use;</i>
Finding: Portions of the property and dwelling unit are located in the FEMA Flood Zone (AE-100 year). The proposed development appears to be outside this zone, albeit the rear walkway is located in the flood zone; however, the walkway purpose is to connect to a water dependent use. Accordingly, the proposed expansion does not appear to have an impact on the current floodplain or flood-prone area.
Conclusion: This requirement appears to be met.
Vote: __ in favor __ against __ abstaining
Standard: 9. <i>Is in conformance with the provisions of this code;</i>
Finding: The proposed development complies with the applicable standards of Title 16.
Conclusion: This requirement appears to be met.
Vote: __ in favor __ against __ abstaining
Standard: 10. <i>Be recorded with the York county Registry of Deeds.</i>
Finding: The proposed shoreland development plan shall be recorded at the York County Registry of Deeds.
Conclusion: This standard is not applicable.
Vote: __ in favor __ against __ abstaining

NOW THEREFORE the Kittery Planning Board adopts each of the foregoing Findings of Fact and based on these Findings determines the proposed Development will have no significant detrimental impact, and the Kittery Planning Board hereby grants final approval for the Development at the above referenced property, including any waivers granted or conditions as noted.

Waivers:

1. 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 unless conforming with the provision under §16.10.9.1.2, §16.10.9.2 and §16.10.9.3.
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. With the exception of the vegetation identified on the plan for removal, no vegetation will be removed without prior approval by the Code Enforcement Officer or the Shoreland Resource Officer. Efforts to protect existing vegetation must be in place prior to grading or construction. The rock fill shall not replace existing vegetation.
4. Prior to the commencement of onsite construction, areas to remain undisturbed must be clearly marked with stakes and caution tape. All stakes, caution tape, silt fences, and other materials used during construction must remain until all onsite work is completed. Prior to removal, written permission to remove such materials must be given by the Code Enforcement Officer.
5. All Notices to Applicant contained herein (Findings of Fact dated 12/10/2020).

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

1. Prior to endorsement of the final plan, the applicant shall submit a revised shoreland development plan to the Town Planner for review and approval with the correct standards, existing and proposed, as describe in the December 10, 2020 Planner Review Notes document.
2. Prior to endorsement of the final plan, the applicant shall submit a revised shoreland development plan to the Town Planner for review and approval illustrating compliance with 16.3.2.17.D(2)(b) and with the correct corresponding devegation and dimensional standards.

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

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.

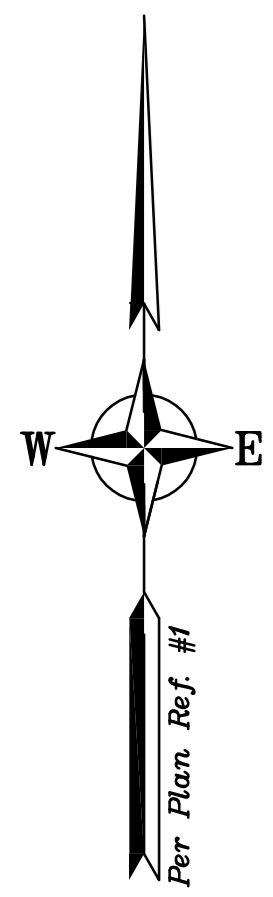
4. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating as elements the Development Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

Appeal of Decision:

1. 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.

PLAN REFERENCES:

- "PORTION OF PROPERTY OF HELEN B. KNAPP IN THE TOWN OF KITTERY, YORK COUNTY, MAINE", SURVEYED BY MOULTON ENGINEERING CO. INC., DATED FEB. 5, 1959 AND RECORDED AT THE Y.C.R.D. AS PLAN BOOK 28 PAGE 4.
- "STANDARD BOUNDARY SURVEY & SITE PLAN FOR PROPERTY AT 76 CHAUNCEY CREEK ROAD, KITTERY POINT, YORK COUNTY, MAINE, OWNED BY SARAH BARTLETT AND UPTON ROLLINS" PREPARED BY NORTH EASTERLY SURVEYING, INC., PROJECT No. 13652, DATED JULY 2, 2013.
- "EXISTING CONDITIONS FOR PROPERTY AT 76 CHAUNCEY CREEK ROAD, KITTERY POINT, YORK COUNTY, MAINE, OWNED BY SARAH BARTLETT UPTON ROLLINS", PREPARED BY NORTH EASTERLY SURVEYING, INC., PROJECT No. 13652, DATED 3/18/2020.

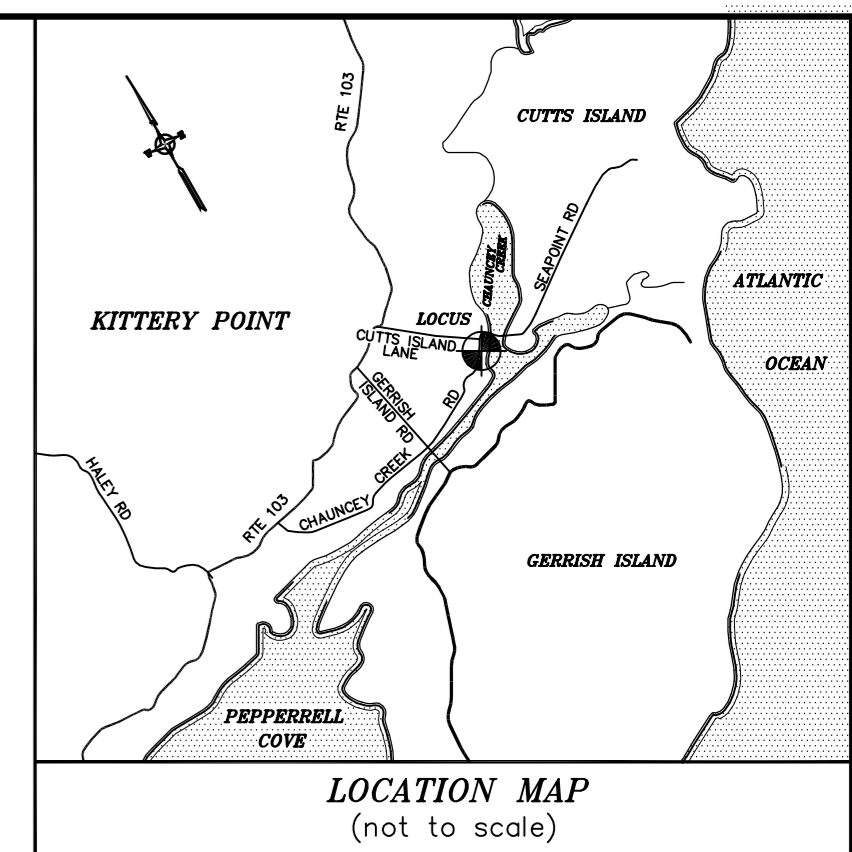


DIMENSIONAL TABLE:

	REQUIRED	EXISTING/PROPOSED
LOT AREA	40,000 SQ. FT.	20,950± SQ. FT.
STREET FRONTAGE	150 FT.	155.60 FT.
SHORE FRONTAGE	50 FT.	159± FT.
BUILDING COVERAGE	20%	11.5%/13.6%
DEVEGETATED COVERAGE	20% MAX	19.8%/20.0%
STRUCTURE FRONT SETBACK	40 FT.	26.5 FT.
SIDE SETBACK	15 FT.	31.5 FT.
H.A.T. SETBACK	100 FT.	16.5 FT.

ZONING DATA PER KITTERY TOWN CODE "TITLE 16 LAND USE AND DEVELOPMENT CODE" (PER E-CODE ONLINE 2/27/2020) (SEE NOTE #5).

BASE ZONE: RESIDENTIAL-KITTERY POINT VILLAGE (R-KPV)
 OVERLAY ZONES:
 WATER BODY/WETLAND PROTECTION AREA - 250' (OZ-SL-250')
 RESOURCE PROTECTION OVERLAY ZONE - OZ-RP
 R-KPV BASE ZONE REQUIREMENTS:
 MINIMUM LAND AREA PER DWELLING UNIT: 40,000 SQ. FT.
 MINIMUM LOT SIZE: 40,000 SQ. FT.
 MINIMUM STREET FRONTAGE: 150 FT.
 MINIMUM FRONT YARD: 40 FT.
 MINIMUM REAR AND SIDE YARDS: 15 FT.
 MAXIMUM BUILDING HEIGHT: 35 FT.
 MINIMUM SETBACK FROM WATER BODY AND WETLAND DEPENDENT USES: 0 FT.
 MAXIMUM BUILDING COVERAGE: 20%
 OZ-SL-250' REQUIREMENTS (SEE 16.3.2.17):
 MINIMUM LOT SIZE: 20,000 SQ. FT.
 MINIMUM LAND AREA PER DWELLING UNIT: 20,000 SQ. FT.
 MINIMUM SHORE FRONTAGE: 50 FT.
 MAXIMUM DEVEGETATED COVERAGE*: 20%
 *SEE 16.3.2.17.0.1.d.iii



NOTES:

- OWNERS OF RECORD:
TAX MAP 45 LOT 66
SARAH BARTLETT UPTON ROLLINS
Y.C.R.D. BOOK 15273 PAGE 568
DATED AUGUST 29, 2007
- TOTAL EXISTING PARCEL AREA:
TAX MAP 45 LOT 66
20,950± Sq. Ft. (0.48± Ac.)
- BASIS OF BEARING IS PER PLAN REFERENCE #1.
- EASEMENTS OR OTHER UNWRITTEN RIGHTS MAY EXIST THAT ENCUMBER OR BENEFIT THE PROPERTY NOT SHOWN HEREON.
- ZONING SETBACKS AND DIMENSIONAL REQUIREMENTS SHOWN HEREON ARE FOR REFERENCE PURPOSES ONLY. AS THIS IS A NON-CONFORMING PARCEL OTHER DIMENSIONAL REQUIREMENTS MAY APPLY. CONFIRM CURRENT ZONING REQUIREMENTS WITH THE TOWN OF KITTERY PRIOR TO DESIGN OR CONSTRUCTION.
- THE BOUNDARY SHOWN HEREON IS DETERMINED FROM WRITTEN RECORDS, FIELD EVIDENCE AND PAROL TESTIMONY RECOVERED AT THE TIME OF SURVEY AND MAY BE SUBJECT TO CHANGE IF OTHER EVIDENCE BECOMES AVAILABLE.
- SUBSURFACE WASTEWATER SYSTEM IS APPROXIMATE. SUBSURFACE UTILITIES MAY BE PRESENT. CONTACT A SUBSURFACE UTILITY CONTRACTOR PRIOR TO DESIGN OR CONSTRUCTION.
- PORTIONS OF TAX MAP 45 LOT 66 FALL WITHIN A SPECIAL FLOOD HAZARD AREA (S.F.H.A.). REFERENCE IS MADE TO FEMA FIRMETTE 230171 0003 C, EFFECTIVE DATE JULY 5, 1984.
- REFER TO DESIGN DRAWINGS TO BE PROVIDED BY THE APPLICANT FOR BUILDING DIMENSIONS, ELEVATIONS AND SPECIFICATIONS.

PRELIMINARY

DEVEGETATED COVERAGE CALCULATION:

LOT AREA	EXISTING	PROPOSED
HOUSE	1,653± SQ. FT. +440	2,093± SQ. FT.
PAVEMENT	715± SQ. FT.	715± SQ. FT.
WALKWAYS	167± SQ. FT. (-17)	157± SQ. FT.
FRONT/SIDE STEPS	183± SQ. FT. (-45)	138± SQ. FT.
FRONT RETAINING WALL / STEP	38± SQ. FT. (-38)	0± SQ. FT.
GARAGE	528± SQ. FT.	528± SQ. FT.
SHED	84± SQ. FT. (-84)	0± SQ. FT.
GRAVEL	274± SQ. FT. (-274)	0± SQ. FT.
PORCHES/OVERHANG	265± SQ. FT. (-60)	225± SQ. FT.
PATIOS	269± SQ. FT. (-208)	61± SQ. FT.
REAR STEPS	25± SQ. FT.	25± SQ. FT.
REAR WALKWAY	0± SQ. FT. (+161)	161± SQ. FT.
DOCK	20± SQ. FT.	20± SQ. FT.
OTHER (T.B.D.)	0± SQ. FT.	67± SQ. FT. (OTHER T.B.D.)
TOTAL	4,241± SQ. FT. (20.2%)	4,190± SQ. FT. (20.0%)

PRINCIPAL STRUCTURE NONCONFORMANCE WITHIN 100' SETBACK:

	EXISTING	PROPOSED
HOUSE	1,653± SQ. FT. +440	2,093± SQ. FT.
SCREEN PORCHES	224± SQ. FT.	224± SQ. FT.
FRONT/SIDE STEPS	183± SQ. FT. (-45)	138± SQ. FT.
REAR STEPS	25± SQ. FT.	25± SQ. FT.
TOTAL	2,085± SQ. FT. +395	2,480± SQ. FT. (18.9% INCREASE THIS PROPOSAL)
	2,010± SQ. FT. (+75, +395)	2,480± SQ. FT. (23.4% INCREASE)*

*PER PLANNER COMMENTS THIS HOME WAS PREVIOUSLY GRANTED A MISCELLANEOUS VARIANCE TO EXPAND BY 75 SQ. FT.

BUILDING COVERAGE:

LOT AREA	EXISTING	PROPOSED
HOUSE	1,653± SQ. FT.	2,093± SQ. FT.
SHED	84± SQ. FT.	0± SQ. FT.
GARAGE	528± SQ. FT.	528± SQ. FT.
SCREEN PORCHES	224± SQ. FT.	224± SQ. FT.
TOTAL	2,489± SQ. FT. (11.9%)	2,845± SQ. FT. (13.6%)

Kittery, Maine - Planning Board Approval

Date of Approval _____

Chair _____ Date _____

YORK,ss REGISTRY OF DEEDS

Received _____

at _____ h _____ m _____ M., and

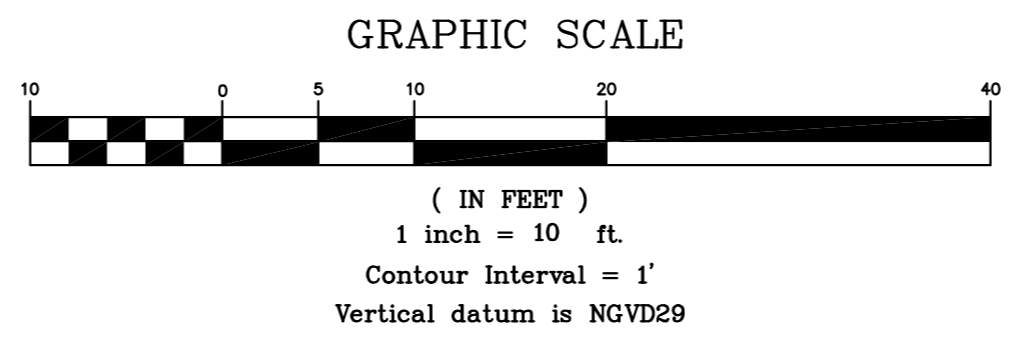
Filed in Plan Book _____ Page _____

ATTEST: _____

Register _____

PROPOSED SITE PLAN
 FOR PROPERTY AT
76 Chauncey Creek Road
 Kittery Point, York County, Maine
 OWNED BY
Sarah Bartlett Upton Rollins
 76 Chauncey Creek Road, Kittery Point, ME 03905

North
EASTERLY SURVEYING, Inc.
 SURVEYORS IN N.H. & MAINE 191 STATE ROAD, SUITE #1
 (207) 439-6333 KITTERY, MAINE 03904



REV.	DATE	STATUS	BY	CHKD	APPD.
B	11/16/2020	SITE PLAN REVISIONS	A.H.P.	A.M.P.	A.M.P.
A	5/20/2020	REVISIONS PER PLANNER COMMENTS	A.H.P.	A.M.P.	A.M.P.

SCALE: 1" = 10' PROJECT NO. 13652 DATE: 4/16/2020 SHEET: 1 OF 1 DRAWN BY: J.D.S. CHECKED BY: A.M.P.

DRAWING No: 13652_SITE_APRIL_2020
 FIELD BOOK No: "Kittery Point #15" **Tax Map 45 Lot 66**

SHORELAND DEVELOPMENT PLAN APPLICATION



TOWN OF KITTERY
Planning & Development Department
 200 Rogers Road, Kittery, ME 03904
 Telephone: 207-475-1323 Fax: 207-439-6806

MAP <u>45</u> LOT <u>66</u>
DATE: <u>6-3-2020</u>
FEE: \$ <u>200.00</u>
ASA*: _____

PROPERTY DESCRIPTION	Physical Address	76 Chauncey Creek Rd., Kittery Point, ME 03905		
	Base Zone	R-KPV	Overlay Zone (s)	Water Body / Wetland Protection Resource Protection Overlay Zone
OWNER INFORMATION	Name	Sarah Buffett Upton Rollins		Mailing Address 76 Chauncey Creek Rd. Kittery Pt., ME 03905
	Phone	617-312-4912		
	Email	sougie@comcast.net		
AGENT INFORMATION	Name		Company	
	Phone		Mailing Address	
	Email			
	Fax			
APPLICANT INFORMATION	Name	Alger Rollins		Mailing Address 76 Chauncey Creek Rd. Kittery Pt., ME 03905
	Phone	978-957-7370		
	Email	alger.rollins@comcast.net		

PROJECT DESCRIPTION	<u>Existing Use:</u> Single family home
	<u>Proposed Use (describe in detail):</u> Proposed project is the addition of a single story dining room, entry porch, and mud room. Construction is to be slab on grade and in the style of the current home.

PROJECT DESCRIPTION	Please describe any construction constraints (wetlands, shoreland overlay zone, flood plain, non-conformance, etc.)
	The house is within the wetland protection and resource protection overlays. the addition is on the side of the house facing the road and away from the waterfront.

I certify I have provided, to the best of my knowledge, information requested for this application that is true and correct and I will not deviate from the Plan submitted without notifying the Planning and Development Department of any changes.

Applicant's Signature:		Owner's Signature:	
Date:	6-2-2020	Date:	6-3-2020

*Applicant Service Accounts: Fees to pay other direct costs necessary to complete the application process, not including application fees. Title 3, Chapter 3.3.

MINIMUM PLAN SUBMITTAL REQUIREMENTS

12 Copies of this Application Form, all supporting documents, and the Development Plan and Vicinity Map 10 plan copies may be half-size (11"x17") and 2 must be full-size (24"x36")

Shoreland Development Plan format and content:

- A) Paper Size; no less than 11" X 17" or greater than 24" X 36"
- B) Plan Scale
 - Under 10 acres: no greater than 1" = 30'
 - 10 + acres: 1" = 50'
- C) Title Block
 - Title: Shoreland Development Plan
 - Applicant's name and address
 - Name of preparer of plan with professional information
 - Parcel's Kittery tax map identification (map - lot) in bottom right corner
 - Vicinity Map or aerial photo showing geographic features 5,000 feet around the site.
- D) Signature Block
 - Area for signature by Planning Board Chair and Date of Planning Board Approval

Development Plan must include the following existing and proposed information:

<p>Existing:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Land Use Zones and boundaries <input type="checkbox"/> Topographic map (optional) <input type="checkbox"/> Wetlands and flood plains <input type="checkbox"/> Water bodies and water courses <input type="checkbox"/> Parcel area <input type="checkbox"/> Lot dimensions <input type="checkbox"/> Utilities (Sewer/septic, water, electric, phone) <input type="checkbox"/> Streets, driveways and rights-of-way <input type="checkbox"/> Structures <input type="checkbox"/> Distance from structure to water body and property lines <input type="checkbox"/> Floor area, volume, devegetated area, and building coverage 	<p>Proposed: (Plan must show the lightened existing topography under the proposed project plan for comparison.)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Recreation areas and open space <input type="checkbox"/> Setback lines and building envelopes <input type="checkbox"/> Lot dimensions <input type="checkbox"/> Utilities (Sewer/septic, water, electric, phone) <input type="checkbox"/> Streets, driveways and rights-of-way <input type="checkbox"/> Structures <input type="checkbox"/> Floor area, volume, devegetated area, and building coverage <p>Distance to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Nearest driveways and intersections <input type="checkbox"/> Nearest fire hydrant <input type="checkbox"/> Nearest significant water body; ocean, wetland, stream
---	--

Shoreland Development Plan Application

SDP-20-2

Status: Active

Submitted: May 28, 2020

Applicant



Alger Rollins

9788577370

alger.rollins@comcast.net

Location

76 CHAUNCEY CREEK ROAD
KITTERY, ME 03905

Project Information

Size of Waterbody

> 1 Acre

Will this project create one acre or more of disturbed area? If yes, you will be required to file a MDEP Notice of Intent to Comply with the Maine Construction Permit. Excavation will require a Maine Dep certified contractor in erosion control measures.

No

Full description of the project

Single story addition to existing home, of a dining room and entry

Lot Size (SF)

20950

Base Zone

--

Overlay Zone(s)

OZ-SL-250 Shoreland Overlay Zone\\tWater Body/Wetland Protection Area 250'

true

OZ-SL-75 Shoreland Overlay Zone Stream Protection Area 75'

--

OZ-CFMU Commercial Fisheries/Maritime Uses Overlay Zone

--

OZ-RP Resource Protection Overlay Zone

true

Project within buffer of overlay zone?

WITHIN 100FT or 75FT (0-100FT from Highest Annual Tide) see sect. A, B, C, D, F Planning Board Review

A. Devegetated Area - Parcel Devegetation

% Allowed (Enter 20% , 50%, 60% or 70% per narrative above)

20

Existing (sf) Devegated Area within 250' Shoreland Overlay Zone

--

Proposed (sf) Devegated Area within 250' Shoreland Overlay Zone

--

% Existing Devegated Area within 250' Shoreland Overlay Zone

--

% Proposed Devegated Area within 250' Shoreland Overlay Zone

20.2

B. Building Footprint - Principle and Accessory Structures

Structure distance from Highest Annual Tide or upland edge of wetland (FT)

6.1

Building Coverage Existing (sf)

2489

(%) Building Coverage Allowed

--

Building Coverage Proposed (sf)

2929

(%) Building Coverage Existing

11.9

(%) Building Coverage Proposed

14

(%) Increase of Coverage

--

Type of Construction

--

Value (\$) of Construction

--

C. Building Height

Bldg. Height Existing (FT)

26

Bldg. Height Proposed (FT)

21

D. Certifications

I certify I have provided, to the best of my knowledge, information requested for this application that is true and correct and I will not deviate from the Plan submitted without notifying the Code Enforcement Departments of any changes.

true

I understand an approved Shoreland Development Plan must be recorded in the York Country Registry of Deeds and I am responsible for incurred costs.

true

I understand calculations for area, volume, and de-vegetated areas must be included on the final plan and certified by a State of Maine registered architect, landscape architect, engineer, or land surveyor

--

Applicant is

Owner

Attachments (2)

pdf **Shoreland Development Plan**

May 28, 2020

pdf **Associated Documents**

May 28, 2020

Timeline

Application Completeness Review

Status: In Progress

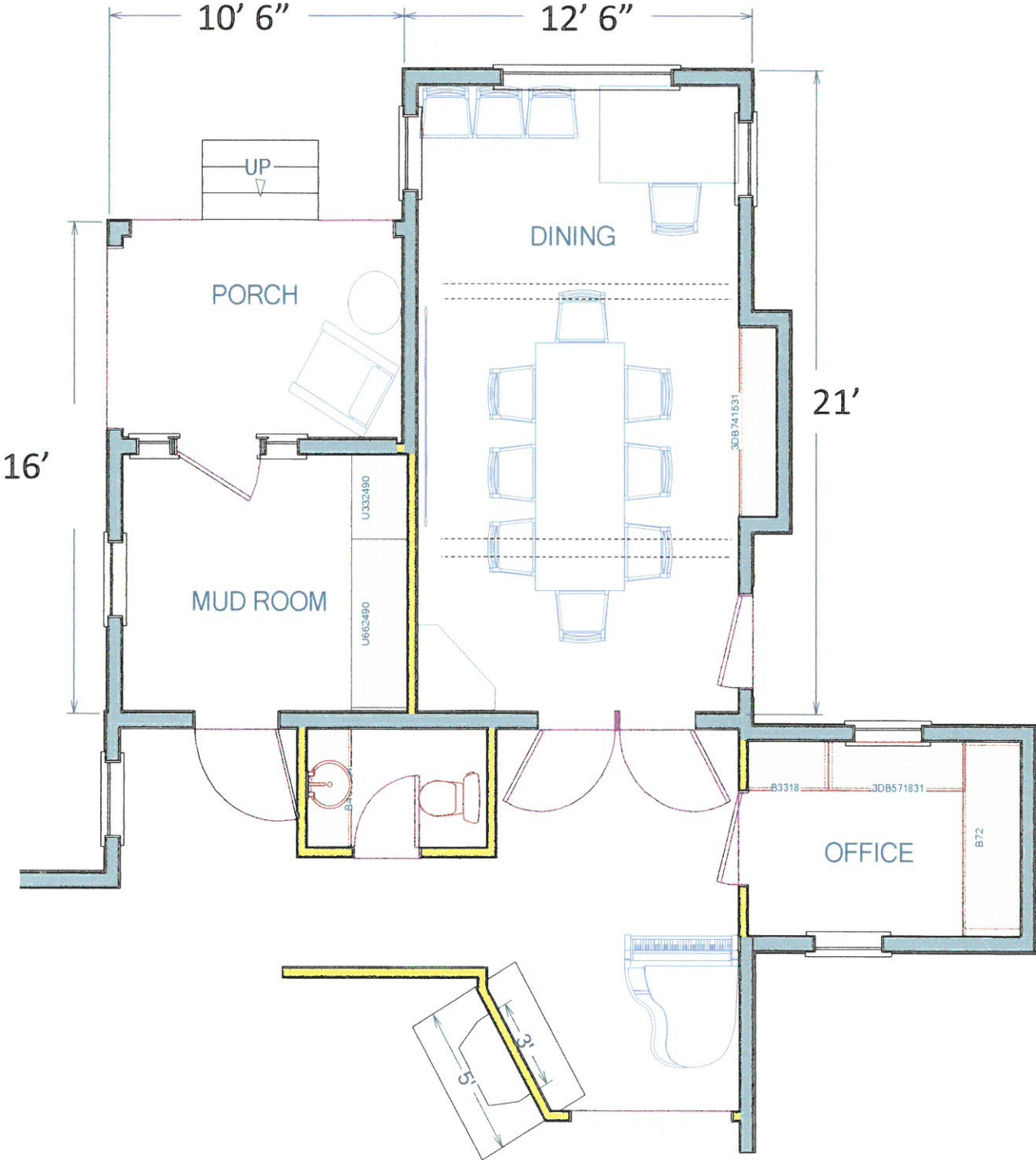
Assignee: Bart McDonough

Dave Evans June 1st 2020, 11:07:40 am

Good Morning Alger,



Additional Exterior Area 400 sq ft

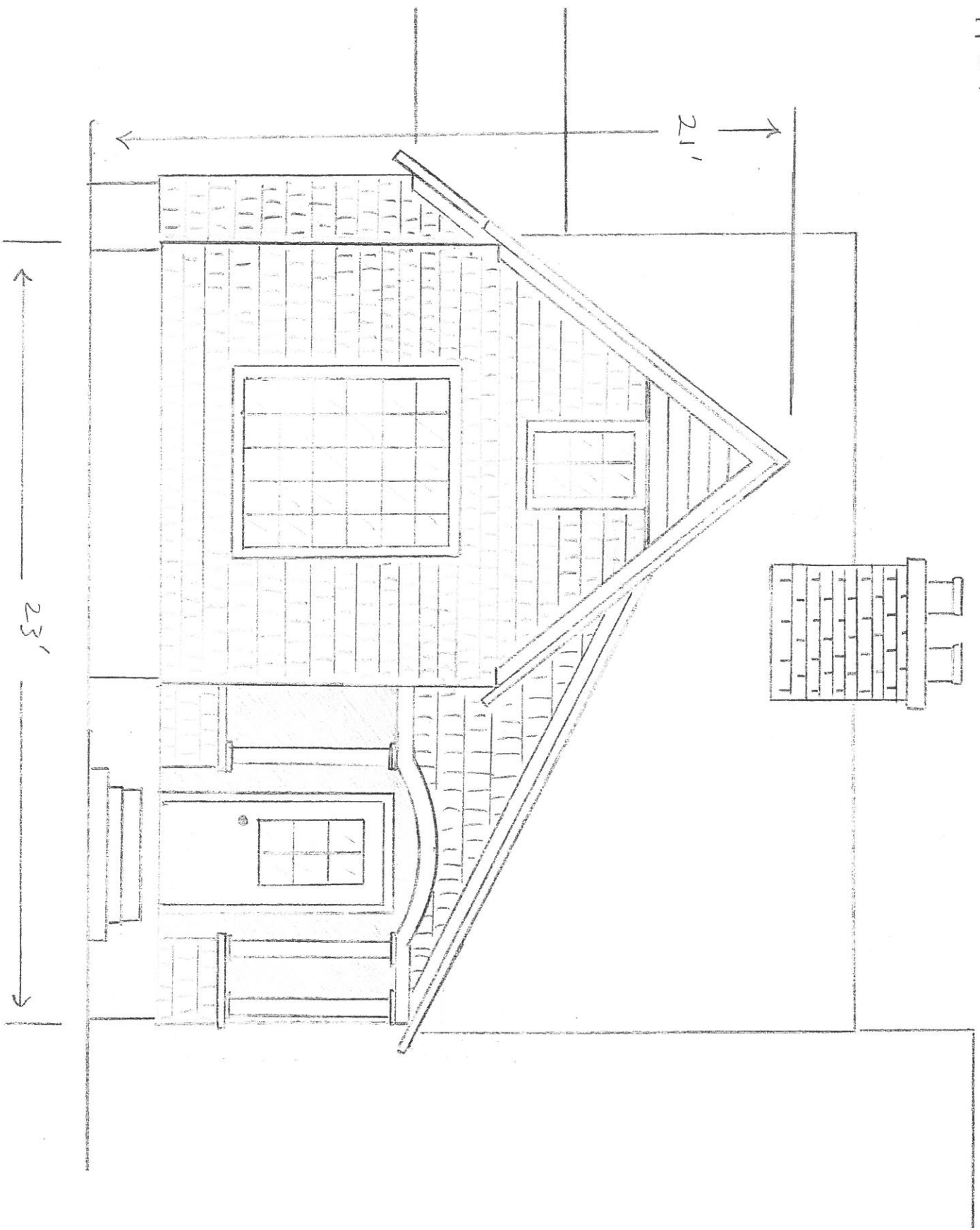


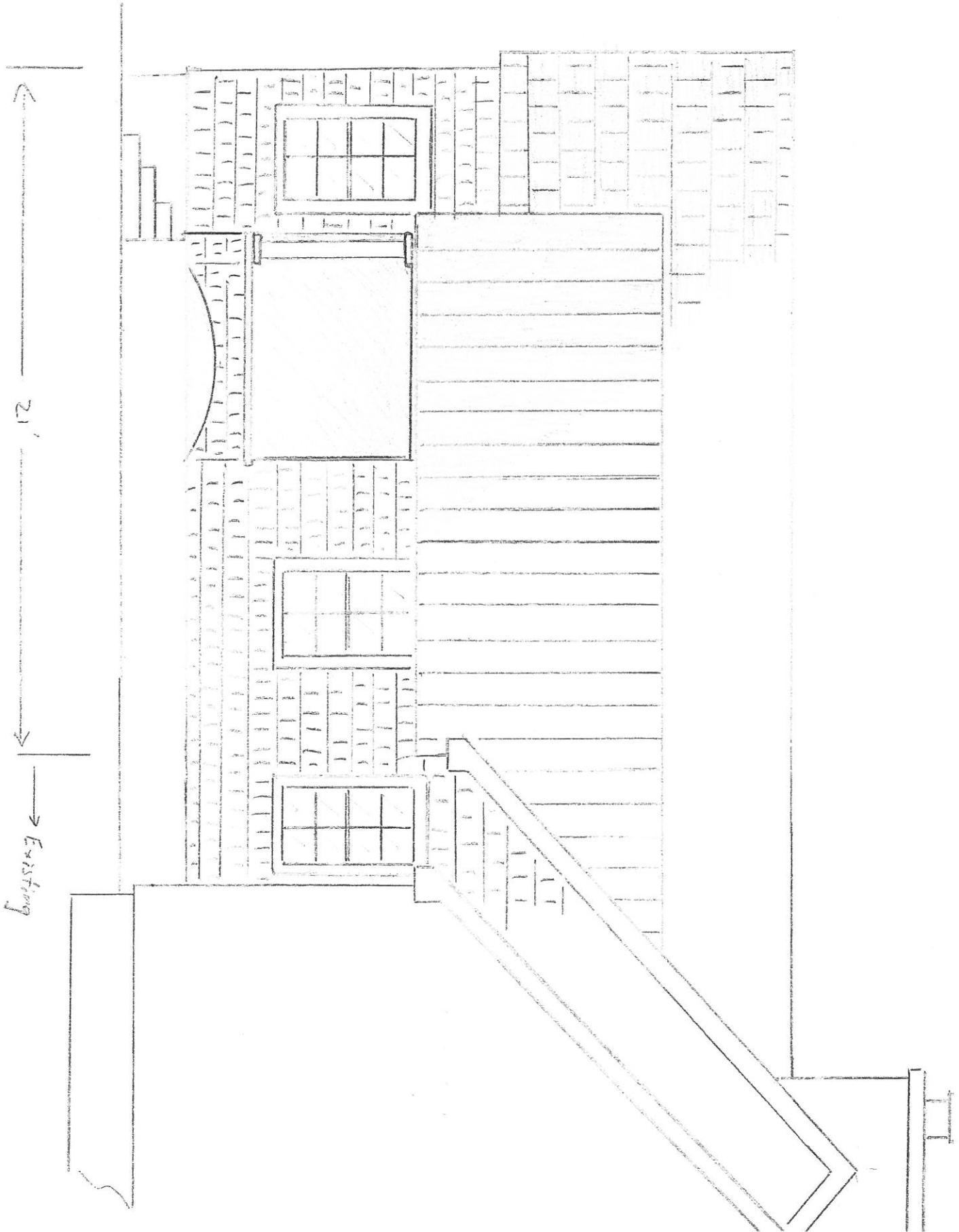
1/4" = 1'

21'

23'

South Elevation





West Elevation

21'

Existing