

**Town of Kittery  
Planning Board Meeting  
September 24, 2020**

**134 Whipple Road – Shoreland Development Plan Review**

Action: Accept/deny plan as complete; If plan is accepted, continue the agenda item to a subsequent meeting, schedule a public hearing / site walk, or approve or deny plan: Owners/Applicants Nicolas and Amy Mercier request approval for a shoreland development plan on a legally non-conforming lot with a legally non-conforming structure proposing to construct a 10.5’ retaining wall comprising 259-sf located within the base zone setback of the Shoreland Overlay Zone located on real property with the address of 134 Whipple Road, Tax Map 10, Lot 6A, in the Residential-Urban (R-U) Zone and the Shoreland (SL-OZ-250) Overlay Zone.

**PROJECT TRACKING**

REQ'D	ACTION	COMMENTS	STATUS
NO	Sketch Plan	None	NOT APPLICABLE
NO	Site Visit	TBD	TBD
YES	Shoreland Development Plan Review Completeness/Acceptance	Scheduled for September 24, 2020	PENDING
NO	Public Hearing	TBD	TBD
YES	Shoreland Development Plan Review Plan Approval	TBD; may occur on September 24, 2020 if the Board decides not to schedule a public hearing and/or site walk	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**

134 Whipple Road (“Property”) is located along the bank of the Piscataqua River within the Residential-Urban (R-U) zoning district and Shoreland Overlay Zone (OZ-SL-250). The property is a legally non-conforming lot, containing a legally non-conforming dwelling unit as the lot’s area is 13,381-sf (0.30-ac), where the Residential-Urban’s dimensional standard calls for 20,000-sf (0.45-ac) and the dwelling unit (1,358-sf; 10.2% devegetation) is positioned within the base zone setback (100-ft.) of the Shoreland Overlay Zone along with other accessory structures and impervious surfaces (1884-sf; 14% devegetation).

In addition to the Piscataqua River, directly abutting 134 Whipple Road is a vacant lot owned by the Town of Kittery and a lot containing a single-family dwelling unit. Likewise, in the general vicinity of the property, the lots are populated with residential dwelling units with the exception of a small-scale commercial fishing operation.

The applicant’s path to permit the retaining wall is two pronged: obtaining a variance from the Board of Appeal (“BOA”) and Planning Board (“Board”) approval for a shoreland development. Considering the proposed retaining wall constitutes as a new structure for a non-water dependent use within the base zone setback, the applicant was obliged to obtain a variance from the BOA that sought relief from §16.3.2.17.D(2)(a)<sup>1</sup> before seeking Board approval. On August 25, 2020, the applicant was successful in

<sup>1</sup> All new principal and accessory structures [except certain patios and decks per § 16.3.2.17D(2)(b)] must be set back at least 100 feet, horizontal distance, 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, with the following exceptions:

1. In the Mixed Use – Badgers Island and Kittery Foreside Zones, the setback requirement is 75 feet, horizontal distance, from the normal high-water line of any water bodies, or the upland edge of a wetland, unless modified according to the terms of §§ 16.3.2.14D and E and 16.3.2.15D
2. In the Resource Protection Overlay Zone, the setback requirement is 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in the zone, in which case the setback requirements specified above apply.
3. The water body, tributary stream, or wetland setbacks do not apply to structures that require direct access to the water body or wetland as an operational necessity, such as piers and retaining walls, nor do they apply to other functionally water-dependent uses, as defined in § 16.2.

obtaining a variance from the BOA to authorize the construction of a new retaining wall within the base zone setback subject to Planning Board approval.<sup>2</sup> The applicant is now appearing before the Board, pursuant to §16.10.3.4.B, requesting approval to construct a 10.5-ft. retaining wall consisting of concrete blocks with an area of 259-sf (1.9% devegetation) along the south lawn of the property abutting the Piscataqua River. The purpose of the retaining wall is to raise the lawn's grade to a level that shall both prevent future soil erosion to the property, and, by extension and more vitally, to avoid further diminishment to the structural integrity of the dwelling unit's foundation.

### **Staff Commentary and Analysis**

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#### *Submission content*

The shoreland development plan and application is considered complete and includes the information as required pursuant to §16.10.5.2.B with the following exceptions:

- Professional seal of the licensed surveyor;
- Abutter reference for properties across Whipple Road;
- Reference date for the Board of Appeal's Notice of Decision; and
- Location of re-vegetation plantings are missing on the plan (a drawing by the applicant was provided, but the landscaping plan will need to be incorporated into the final plan.)

If the Board were to accept and approve the application, the above information should be incorporated in a revised shoreland development plan prior to endorsement.

#### *Waivers*

The applicant is not requesting any waivers from any review or ordinance standards.

#### *Development standards*

Considering the applicant obtain relief from §16.3.2.17.D(2)(a) from the BOA to construct a new structure within the base zone setback of the Shoreland Overlay Zone, the Board is tasked in determining whether or not the other provisions under §16.3.2.17.D, §16.9.1.3 *Prevention of erosion* and 16.9.1.4 *Soil Suitability* are satisfied. Specifically, the Board needs to ascertain if the devegetation, erosion control measures, soil characteristics, and project in sum are respectfully satisfactory, compliant, environmentally sound and conforming with the findings of fact, pursuant to §16.10.10.2.D.

§16.3.2.17.D(1)(d)<sup>3</sup> purpose is to control the amount of devegetation within the various zoning districts that are overlaid by the Shoreland Zone. In this case, the property is subject to the 20% devegetation rate as the lot is greater than 10,000-sf. The existing lot has a pre-existing, legally non-conforming devegetation rate of 24.2%. To accommodate the new retaining wall, the applicant is proposing to revegetate the gravel soils near the shoreline with various plantings, as put forth in a proposal by Piscataqua Landscaping & Tree Service, and as depicted in the shoreland development plan by Easterly Surveying, Inc. The Board needs to determine if these planting are suitable for the proposed location, considering the proximity to the river. If the location is inhospitable for revegetation as proposed, the applicant will need to propose an alternate location for the plantings that offsets the devegetation rate of the proposed retaining wall, or, alternatively, propose vegetation that will thrive in the designated revegetation locations as currently depicted on the shoreland development plan.

§16.9.1.3 *Prevention of erosion* purpose is to ensure that erosion does not runoff into protected resource. The applicant is proposing to disturb and move a significant amount of soil near the Piscataqua River, which will require insurances that the proper measures are adhered to. To date, the applicant has yet to submit any documentation presenting the implementation of those erosion control measures. The Board should inquire

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<sup>2</sup> Board of Appeals 'Notice of Decision' was yet to be signed by the Chair at the time this report was drafted.

<sup>3</sup> 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

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 – Badgers Island (MU-BI) Zone to 70% where it is clearly demonstrated that no practicable alternative exists to accommodate a water-dependent use.
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%.
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%

if the applicant has those plans in hand, and, if not, the Board needs to determine if this documentation ought to be provided during their review, or be a condition of approval: to be submitted for review and compliance prior to the issuance of a building permit, if the Board were to approval the plan.

*§16.9.1.4 Soil suitability* intent is to safeguard from adverse environmental impact and to ensure the proposed structures can be supported by the existing and anticipated soils. To wit, the Board needs to conclude if the proposed shoreland development plan both protects from adverse environmental impact and certifies that the proposed structures can be supported by the existing and proposed soils. Specifically, a determination that finds the proposed use and structures are:

*“...established or maintained without causing adverse environmental effects, including, but not limited to, severe erosion, mass soil movement, improper drainage, and water pollution to surface water and groundwater, whether during or after construction.”<sup>4</sup>*

Finally, the Board, before moving forward with any consideration, needs to review the findings of fact, pursuant to §16.10.10.2.D, to make a factual determination on whether the proposed shoreland development application for a retaining wall complies with the relevant provisions within Title 16.

### **Planning Board Procedural Steps**

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After the Board has been presented with the application and deliberation 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 for the middle of next week. As regards the public hearing, if desirable, it should be scheduled for the next Planning Board meeting, October 8, 2020. There is enough time between September 24, 2020 and October 8, 2020, to notice the paper and abutters.
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.

### **Recommended Motions**

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Below are recommended motions for the Board’s consideration:

#### *Motion to continue application*

Move to continue the agenda item to the October 8, 2020 Planning Board meeting for a shoreland development application from owners/applicants Nicolas and Amy Mercier requesting approval for a shoreland development plan on a legally non-conforming lot with a legally non-conforming structure proposing to construct a 10.5’ retaining wall comprising 259-sf located within the base zone setback of the Shoreland Overlay Zone located on real property with the address of 134 Whipple Road, Tax Map 10, Lot 6A, in the Residential-Urban (R-U) Zone and the Shoreland (SL-OZ-250) Overlay Zone.

#### *Motion to schedule a site walk*

Move to schedule a site walk on \_\_\_\_\_, 2020, for a shoreland development application from owners/applicants Nicolas and Amy Mercier requesting approval for a shoreland development plan on a legally non-conforming lot with a legally non-conforming structure proposing to construct a 10.5’ retaining wall comprising 259-sf located within the base zone setback of the Shoreland Overlay Zone located on real property with the address of 134 Whipple Road, Tax Map 10, Lot 6A, in the Residential-Urban (R-U) Zone and the Shoreland (SL-OZ-250) Overlay Zone.

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<sup>4</sup> See §16.9.1.4.B, *Land Use and Development Code, Town of Kittery, 2018, as amended*

*Motion to schedule public hearing*

Move to schedule a public hearing on the October 8, 2020 Planning Board meeting for a shoreland development application from owners/applicants Nicolas and Amy Mercier requesting approval for a shoreland development plan on a legally non-conforming lot with a legally non-conforming structure proposing to construct a 10.5' retaining wall comprising 259-sf located within the base zone setback of the Shoreland Overlay Zone located on real property with the address of 134 Whipple Road, Tax Map 10, Lot 6A, in the Residential-Urban (R-U) Zone and the Shoreland (SL-OZ-250) Overlay Zone.

*Motion to approve with conditions*

Move to approve the shoreland development application from owners/applicants Nicolas and Amy Mercier requesting approval for a shoreland development plan on a legally non-conforming lot with a legally non-conforming structure proposing to construct a 10.5' retaining wall comprising 259-sf located within the base zone setback of the Shoreland Overlay Zone located on real property with the address of 134 Whipple Road, Tax Map 10, Lot 6A, in the Residential-Urban (R-U) Zone and the Shoreland (SL-OZ-250) Overlay Zone with the following conditions:

- (1) Prior to endorsement of the shoreland development plan, the applicant shall submit a revised plan depicting the following:
  - a. Professional seal of the licensed surveyor;
  - b. Abutter reference for properties across Whipple Road;
  - c. Reference date for the Board of Appeal's Notice of Decision; and
  - d. Location of re-vegetation plantings.
- (2) Prior to the issuance of a building permit, the applicant shall submit a plan to the Planning and Development Department for review and approval an erosion control plan demonstrating satisfactory compliance with §16.9.1.3 and §16.9.1.4 of the Town of Kittery's Land Use Development Code.

*Motion to deny.*

Move to deny the shoreland development application from owners/applicants Nicolas and Amy Mercier requesting approval for a shoreland development plan on a legally non-conforming lot with a legally non-conforming structure proposing to construct a 10.5' retaining wall comprising 259-sf located within the base zone setback of the Shoreland Overlay Zone located on real property with the address of 134 Whipple Road, Tax Map 10, Lot 6A, in the Residential-Urban (R-U) Zone and the Shoreland (SL-OZ-250) Overlay Zone with the following conditions:

**M10 L6A**

**Kittery Planning Board**  
**Findings of Fact**  
**For 134 Whipple Road**  
**Shoreland Development Plan Review**

**UNAPPROVED**

**WHEREAS:** Owners/Applicants Nicolas and Amy Mercier request approval for a shoreland development plan on a legally non-conforming lot with a legally non-conforming structure proposing to construct a 10.5' retaining wall comprising 259-sf located within the base zone setback of the Shoreland Overlay Zone located on real property with the address of 134 Whipple Road, Tax Map 10, Lot 6A, in the Residential-Urban (R-U) Zone and the Shoreland (SL-OZ-250) Overlay Zone.

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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 7/31/20
2. Shoreland Development Plan, Easterly Surveying, Inc., dated 9/2/20
3. Site Plan, SCF Engineering, dated, 3/23/2020, last revised 6/23/20
4. Impact analysis letter, SCF Engineering, dated 7/15/20
5. Landscaping Proposal, Piscataqua Landscaping and Tree Service, dated 7/9/20

**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><b>16.3.2.17.D(1)(D)</b></p> <p><b>Standard:</b> <i>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...</i></p> <p><b>Findings:</b> 134 Whipple Road had a pre-existing, legally non-conforming devegetation rate of 24.2% and is proposing to reduce the rate to 24.0%.</p> <p><b>Conclusion:</b> The standard appears to be met.</p> <p style="text-align: right;"><b>Vote:</b> ___ in favor ___ against ___ abstaining</p>
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## Chapter 16.9 DESIGN AND PERFORMANCE STANDARDS FOR NATURAL ENVIRONMENT

### §16.9.1.3.B(1)

**Standard:** *The developer must:*

- (a) *Select a site with the right soil properties, including natural drainage and topography, for the intended use;*
- (b) *Utilize for open space uses those areas with soil unsuitable for construction;*
- (c) *Preserve trees and other vegetation wherever possible;*
- (d) *Hold lot grading to a minimum by fitting the development to the natural contour of the land; avoid substantial areas of excessive grade;*
- (e) *Spread jute matting, straw or other suitable material during construction in critical areas subject to erosion;*
- (f) *Construct sediment basins to trap sediment from runoff waters during development; expose as small an area of subsoil as possible at any one time during development and for as short a period as possible;*
- (g) *Provide for disposing of increased runoff caused by changed land formation, paving and construction, and for avoiding sedimentation of runoff channels on or off the site;*
- (h) *Plant permanent and, where applicable, indigenous, vegetation and install structures as soon as possible for the purpose of soil stabilization and revegetation;*

**Finding:** It appears that the proposed design will not adversely impact the surrounding landscape and soils, nor increase runoff and soil erosion.

**Conclusion:** This standard appears to be met

### §16.9.1.4.B

**Standard:** *All land uses must be located on soils upon which the proposed uses or structures can be established or maintained without causing adverse environmental effects, including, but not limited to, severe erosion, mass soil movement, improper drainage, and water pollution to surface water and groundwater, whether during or after construction.*

**Finding:** It appears that the proposed retaining wall may be supported by the existing and proposed soils nor will adversely impact the surrounding natural features; albeit, confirmation is required prior to the commencement of any site work.

**Conclusion:** The requirement appears to be met.

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

## Chapter 16.7 GENERAL DEVELOPMENT REQUIREMENTS Article III Nonconformance

### 16.7.3.1 Prohibitions and Allowances

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

**Finding:** The applicant was granted a variance by the Board of Appeals at their August 25, 2020 meeting, to permit, after obtaining the requisite approvals from all other applicable permitting jurisdictions, the construction of a retaining wall within the base zone setback of the Residential-Urban's Shoreland Overlay Zone, thereby creating a legally more non-conforming lot.

**Conclusion** The requirement appears to be met.

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

## Chapter 10 DEVELOPMENT PLAN APPLICATION AND REVIEW

### Article 10 Shoreland Development Review

#### 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:*

**Standard:** 1. Maintain safe and healthful conditions;

**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:** 2. Not result in water pollution, erosion or sedimentation to surface waters;

**Finding:** 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. An existing eroded slope will be revegetated.

**Conclusion:** This requirement appears to be met

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

**Standard:** 3. Adequately provide for the disposal of all wastewater;

**Finding:** The proposed development includes a wastewater disposal system designed to handle visitors plus docent's quarters.

**Conclusion:** This requirement is not applicable to the application

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

**Standard:** 4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

**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. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;

**Finding:** The application appears to improve the shore cover and points of access to coastal waters abutting the lot as the retaining wall will assist in stabilizing the land area that access the pier and shoreline and improve the grade with the assistance with additional supporting revegetation.

**Conclusion:** This requirement appears to be met.

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

**Standard:** 6. Protect archaeological and historic resources;

<p><b>Finding:</b> There appears to be no archaeological and historical resources on the lot, thereby nothing to protect.</p> <p><b>Conclusion:</b> This requirement appears to be met.</p>
<b>Vote: __ in favor __ against __ abstaining</b>
<p><b>Standard:</b> 7. <i>Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;</i></p> <p><b>Finding:</b> The proposed development does not adversely impact existing commercial fishing or maritime activities.</p> <p><b>Conclusion:</b> This requirement appears to be met.</p>
<b>Vote: __ in favor __ against __ abstaining</b>
<p><b>Standard:</b> 8. <i>Avoid problems associated with floodplain development and use;</i></p> <p><b>Finding:</b> The property is designated Zone A2 by FEMA Flood Zone standards and is defined as a Special Flood Hazard Area (SFHA) along the small portions of the lot abutting the highest annual tide. The proposed development is located outside the SFHA, yet future monitoring should take place as climate change affects the waterway and surrounding environment. In short, the proposed application does not appear to have an impact on the current floodplain or flood-prone area.</p> <p><b>Conclusion:</b> This requirement appears to be met.</p>
<b>Vote: __ in favor __ against __ abstaining</b>
<p><b>Standard:</b> 9. <i>Is in conformance with the provisions of this code;</i></p> <p><b>Finding:</b> The proposed development complies with the applicable standards of Title 16.</p> <p><b>Conclusion:</b> This requirement appears to be met.</p>
<b>Vote: __ in favor __ against __ abstaining</b>
<p><b>Standard:</b> 10. <i>Be recorded with the York county Registry of Deeds.</i></p> <p><b>Finding:</b> A plan suitable for recording will be prepared.</p> <p><b>Conclusion:</b> As stated in the Notices to Applicant contained herein, Shoreland Development plans must be recorded with the York County Registry of Deeds within 90 days of approval prior to the issuance of a building permit.</p>
<b>Vote: __ in favor __ against __ abstaining</b>

**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:** 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. 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 09/24/2020).

**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 Mylar.
2. Prior to the issuance of a building permit, the applicant shall submit a plan to the Planning and Development Department for review and approval an erosion control plan demonstrating satisfactory compliance with §16.9.1.3 and §16.9.1.4 of the Town of Kittery's Land Use Development Code.

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.