

1 **CALL TO ORDER**

2

3 **ROLL CALL**

4

5 Present: Eardean Wells, Member, Steve Bellantone, Member, Ethan Bensley, Member,  
6 Robert Doyle, Member, Russell White, Member, Karen Kalmar, Vice Chair, and Dutch  
7 Dunkelberger, Chair

8

9 Absent:

10

11 Staff: Jason Garnham, Director of Planning

12

13 Advisory: Nanci Lovett, Conservation Commission

14

15 **PLEDGE OF ALLEGIANCE**

16

17 **APPROVAL OF AGENDA**

18

19 **PUBLIC COMMENTS**

20

21 The public may attend the meeting in person or remotely via Zoom. Attendees via Zoom  
22 will be recognized during the public hearings and public comment portion of the  
23 meeting. Please note: every effort will be made to make this run smoothly, however  
24 some technical difficulties may occur. To register via Zoom visit

25 [https://us02web.zoom.us/webinar/register/WN\\_qycXEoK5SLm6FOA1FJDjYq](https://us02web.zoom.us/webinar/register/WN_qycXEoK5SLm6FOA1FJDjYq)

26 or at <https://www.kitteryme.gov/planning-board>

27

28 Public comment and opinion are welcome during this meeting. However, comments and  
29 opinions related to development projects currently being reviewed by the Planning  
30 Board will be heard only during a scheduled public hearing when all interested parties  
31 have the opportunity to participate. Those providing comment must state clearly their  
32 name and address, and record it in writing at the podium. Further, the public may submit  
33 written public comments via email, US Mail, or by hand delivery to Town Hall. Emailed  
34 comments should be sent to [jgarnham@kitteryme.org](mailto:jgarnham@kitteryme.org). Comments received by noon on  
35 the day of the meeting will become part of the public record and may be read in whole  
36 or in summary by the Planning Board or Town Staff.

37

38 There being no public comments, the Chair closed the public comments.

39

40 **OLD BUSINESS-**

41

42 5:26

43 **ITEM 1 – 28 Wyman Avenue – Sketch Plan Review – Cluster Residential**  
44 **Subdivision – Public Hearing**

45 Action: Public Hearing was held 11/17/22; continue review, approve or deny plan:

46 Pursuant to Title 30-A M.R.S.A. §4401-4408 Municipal Subdivision Law and §16.8.10.H,  
47 Cluster Residential Development of the Town of Kittery Land Use and Development  
48 Code, owner Lusitano, LLC requests approval for a cluster residential development  
49 proposing three (3) single-family residences as a condominium on real property with an  
50 address of 28 Wyman Avenue (Tax Map 16, Lot 148) located in the Residential-Urban  
51 (R-U) Zone.

52

53 Robert Doyle recused himself from the item as he is an abutter.

54 Eric Weinrieb, Altus Engineering, gave a brief overview of the project. Mr. Weinrieb and  
55 the Board discussed storm drainage, private road classification, road design, and  
56 landscaping.

57 **Mr. White moved to accept the sketch plan. Seconded by Vice Chair Kalmar. The**  
58 **motion passed 5-0-1, with Mr. Bensley abstaining.**

59

60 20:20

61 **ITEM 2 – 21 Happy Avenue and 12 Roseberry Road Right-of-Way (ROW) Review**

62 Action: ROW was accepted with Conditions 12/08/22, Review and Findings of Fact to  
63 be read. Owners and applicants, William and Cathy Cullen and Caroline Hall request

64 consideration of a right-of-way plan for a 4.78 acre +/- acre parcel (Tax Map 11, Lot 29)  
65 proposing a ROW located on Happy Avenue (Tax Map 11 Lot 29-5) in the Residential  
66 Suburban Zone (R-S). Agent is Nathan Amsden, PLS., Amsden Field Survey.

67

68 Caroline Hall informed the Board of a few issues relating to the snow storage removal  
69 and access, and property lines.

70 Mr. Garnham suggested a third-party to field verify the property lines on site and on the  
71 plans. Mr. Dunkelberger asked the Board if they should reconsider their prior vote.

72 Discussion ensued on the course of action.

73 **Mr. White moved to reconsider the vote of final approval on December 8, 2022.**

74 **Seconded by Mr. Bellantone. The motion passed 7-0-0.**

75 **Mr. White moved to continue the item, not to exceed 90 days. Seconded by Vice**  
76 **Chair Kalmar. The motion passed 7-0-0.**

77

78 33:50

79 **ITEM 3 – 41 Route 236 – Preliminary Site Plan Review**

80 Action: Public Hearing held 10/13/22; approve or deny plan. Pursuant to §16.4 Land  
81 Use Regulations, §16.4.20 Special Exception Use Request, §16.5.32 Marijuana  
82 Business, and §16.7 Site Plan Review of Kittery Land Use and Development Code,  
83 owner LaPierre Properties LLC and applicant Well Field 44 LLC with agent Attar  
84 Engineering requests approval for a special exception use to construct a 1,034-sf  
85 Marijuana Business with appurtenant infrastructure and a wetland alteration of 1,367-sf,  
86 located on real property with the address of 41 Route 236, Tax Map 29, Lot 1, in the  
87 Commercial 2 (C-2) zoning district.

88  
89 Mike Sudak, Attar Engineering, gave an update on the project. Parking changes, culvert  
90 crossing, DEP correspondence, and wetland restoration were discussed. Traffic  
91 analysis updates and comparisons were discussed with the Board. Snow storage area  
92 and design clarified briefly. Culverts and DOT review, and stormwater discussed.  
93 Wetland restoration plan mentioned.

94 **Mr. White move to continue the application, not to exceed 90 days. Seconded by**  
95 **Vice Chair Kalmar. The motion passed 7-0-0.**

96

97 **NEW BUSINESS-**

98

99 1:22:55

100 **ITEM 4 – 39 Badgers Island West – Minor Subdivision Sketch and Shoreland**  
101 **Development Plan Review**

102 Action: continue review, approve, or deny plan: Pursuant to §16.4 Land Use  
103 Regulations and §16.9.3 Shoreland Development Review requirements of the Town of  
104 Kittery Land Use and Development Code, owner applicant B.I.W. Group, LLC and agent  
105 Chris Atwood Otter Creek homes with Ambit Engineering propose to subdivide the 0.48-  
106 acre parcel identified as Lot 38 of Tax Map 1 into 4 residential condominiums. The  
107 property is located at 39 Badgers Island West, in the Mixed-Use Badgers Island Zoning  
108 District (MU-BI) and Shoreland Overlay Zone (OZ-SL-250').

109

110 John Chagnon, Ambit Engineering presented the project to the Board. He reviewed the  
111 site plan. Road design and landscaping discussed briefly.

112 **Mr. White moved to accept the plan as complete. Seconded by Mr. Bellantone.**  
113 **The motion passed 7-0-0.**

114 **Mr. White moved to schedule a site walk on January 25, 2023 at 4 PM. Seconded**  
115 **by Vice Chair Kalmar. The motion passed 7-0-0.**

116 **Vice Chair Kalmar moved to schedule a public hearing on February 9, 2023 at 6**  
117 **PM. Seconded by Mr. White. The motion passed 7-0-0.**

118

119 1:43:35

120 **ITEM 5 – 47 Cutts Road – Major Subdivision Sketch Plan Review**

121 Action: continue review, approve, or deny plan: Chip and Anne Andrews, represented  
122 by Attar Engineering, Inc., propose to subdivide a 36-acre parcel into 10 residential  
123 building lots, a private street system, and a tract to be dedicated to the Kittery Land  
124 Trust. The property is identified as Lot 10-3 of Tax Map 60 and is located at 47 Cutts  
125 Road in the R- RL Residential Rural Zoning District.

126

127 Mike Sudak, Attar Engineering, presented the project and reviewed the plans. Mr.  
128 Sudak explained the intent of a conventional subdivision versus a conservation  
129 subdivision. The Board discussed the impacts of the conventional subdivision, and  
130 requested to see both subdivision categories for the project. Road standards and build-  
131 out of lots were discussed briefly.

132 The Board took no action on the item.

133 Mr. Garnham read a note from the Kittery Land Trust requesting information from the  
134 applicant.

135

136 2:07:45

137 **ITEM 6 – Proposed Amendments to Title 16.8.10.D**

138 Action: set a public hearing date, continue review: Kittery property owners James and  
139 Tudor Austin request a change to §16.8.10-D of Kittery’s Land Use and Development  
140 Code to allow variances for first-time septic systems in minimum setback areas.  
141 §16.8.10-D.2.b.1 currently states that the minimum setback distance for a first-time  
142 subsurface disposal system may not be reduced by variance.

143

144 The Board discussed the item briefly, however there was no applicant present to  
145 discuss the item. Mr. Garnham will reach out to the applicant.

146 The Board did not take action on the item.

147

148 **APPROVAL OF MINUTES**

149

150 2:12:00

151 **ITEM 7 – December 8, 2022 Meeting Minutes**

152 Line 67: the vote was 5-0-0, add “(Mr. Perry had stepped out of the room)”

153 Line 92: insert “her” to recuse herself

154 Line 91: change ark to “arq”

155 **Vice Chair Kalmar moved to approve the minutes as amended. Seconded by Mr.**  
156 **Doyle. The motion passed 5-0-2. Mr. Bensley and Mr. Doyle abstained.**

157

158 2:15:25

159 **BOARD MEMBER ITEMS-**

160

161 **2023 Election of Officers**

162

163 **Mr. White nominated the current Chair and Vice Chair to serve another year. Mr.**  
164 **Bellantone seconded the nomination. The motion passed 7-0-0.**

165 **Ms. Wells nominated Mr. Bellantone for Secretary. Seconded by Vice Chair Kalmar.**  
166 **The motion passed 7-0-0.**

167

168 **2023 Planning Board goals**

169 Chair Dunkelberger requested to look at goals in late February.

170

171 **New Board member training and resources**

172 MMA training webinar on Thursday February 16<sup>th</sup>. 4 PM-7:30 PM.

173

174 **Subcommittee reports from Housing and from Climate Adaptation and Kittery Land**  
175 **Issues.**

176 Chair Dunkelberger volunteered to be a member on the Climate Adaptation Committee.  
177 Mr. White would like the draft report to Council as the subcommittee report for Housing  
178 Committee to the Planning Board.

179 Ms. Wells asked if two Planning Board members could serve on KLIC. Ms. Wells  
180 introduced Nanci Lovett and Clayton Smith as the new member representative from  
181 Conservation Commission.

182

183 2:24:35

184 **TOWN STAFF ITEMS-**

185 Mr. Garnham asked the members their preference on paper packets. All members would  
186 like to continue receiving paper packets.

187

188 2:29:15

189 **Adjournment**

190

191 **Mr. Bensley moved to adjourn. Seconded by Mr. Doyle. The motion passed 7-0-0.**

192

193 The Kittery Planning Board meeting of January 12, 2023 adjourned at 8:29 p.m.

194

195 Submitted by Carrie Varao, Development Staff Clerk on January 19, 2023.

196

197 Disclaimer: The following minutes constitute the author's understanding of the meeting.

198 Whilst every effort has been made to ensure the accuracy of the information, the

199 minutes are not intended as a verbatim transcript of comments at the meeting, but a

**TOWN OF KITTERY, Maine  
PLANNING BOARD MEETING  
COUNCIL CHAMBERS**

**UNAPPROVED  
JANUARY 12, 2023**

200 summary of the discussion and actions that took place. For complete details, please  
201 refer to the video of the meeting on the Town of Kittery website at  
202 <http://www.townhallstreams.com/locations/kittery-maine>.