

1 **CALL TO ORDER**

2

3 **ROLL CALL**

4

5 Present: John Perry, Member, Russell White, Member, Ronald Ledgett, Member, Karen  
6 Kalmar, Vice Chair, and Dutch Dunkelberger, Chair

7

8 Absent: Drew Fitch, Member, and Steve Bellantone, Member

9

10 Staff: Bart McDonough, Town Planner

11

12 Advisory: Earledean Wells, Conservation Commission

13

14 **PLEDGE OF ALLEGIANCE**

15

16 **APPROVAL OF AGENDA-** Chair Dunkelberger proposed moving the Public Hearing  
17 items first. The Board agreed. Mr. White suggested the approval of the minutes be  
18 moved to the end of the meeting if time allows. The Board agreed.

19

20 **APPROVAL OF MINUTES-** August 27, 2020; September 10, 2020; & September 24,  
21 2020

22 Deferred to the end of the meeting

23

24 **PUBLIC COMMENTS**

25

26 The public may attend the meeting in person or remotely via Zoom. Attendees via Zoom  
27 will be recognized during the public hearings and public comment portion of the  
28 meeting. Please note, the Town is testing its hybrid meeting technology. Every effort will  
29 be made to make this run smoothly, however some technical difficulties may occur as  
30 the Town implements this new approach. To register via Zoom:

31 [https://us02web.zoom.us/webinar/register/WN\\_Rcj4kiG4SRayzgXJDsCeyg](https://us02web.zoom.us/webinar/register/WN_Rcj4kiG4SRayzgXJDsCeyg)

32 Further, the public may submit public comments via email, US Mail, or by dropping  
33 written comments in the Drop Box outside the Town Hall entrance. Emailed comments  
34 should be sent to [bmcdonough@kitteryme.org](mailto:bmcdonough@kitteryme.org). Comments received by noon on the day  
35 of the meeting will become part of the public record and may be read in whole or in  
36 summary by the Planning Board Chair or Town Planner.

37

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

39

40

41 **PUBLIC HEARING**

42

43 4:40

44 **ITEM 2—1-3 Badgers Island West—Shoreland Development Plan Review**

45 Action: Continue public hearing to a subsequent meeting, close public hearing, if public  
46 hearing closed, vote on application: Pursuant to 16.3 Land Use Regulations, §16.10.3.2

47 Shoreland Development Review and Article III Nonconformance of §16.7 General  
48 Development Requirements of the Town of Kittery Land Use and Development Code,  
49 owners One Badgers Island West, LLC, Elizabeth Casella & William J. Banfield,  
50 applicant Little Bridge Lobster LLC and agent Altus Engineering, Inc. requests approval  
51 for a special exception to change the use of an legally nonconforming structure to a  
52 restaurant and to make improvements thereto by reconstructing and expanding the  
53 footprint and height and to add 12 parking spaces with outdoor seating area on a lot  
54 within the base zone setback of the Shoreland Land Overlay Zone on real property with  
55 an address of 1-3 Badgers Island West, Tax Map 1, Lot 19 in of the Mixed-Use Badgers  
56 Island (MU-BI) zoning district and Shoreland (OZ-SL-250'), Resource Protection (OZ-  
57 RP) and Commercial Fisheries/Maritime Activities (OZ-CFMU) Overlay Zones.

58

59 Eric Weinrieb, Altus Engineering, Inc. gave an update on the project, referencing  
60 updated plans. Mr. Weinrieb reviewed the plans at the request of the Board.

61 Discussion continued on the FEMA flood zone.

62 **Mr. White moved to move the Resource Protection Overlay Zone line to the FEMA**  
63 **Zone A A2 boundary. Seconded by Vice Chair Kalmar. The motion passed by roll**  
64 **call vote 5-0-0.**

65 Chair Dunkelberger opened the public hearing.

66 Ben Porter, Langdon's Island Condominium Association made a comment in support of  
67 the project. Earledean Wells asked a question regarding the chicken coup distance to a  
68 restaurant.

69 Chair Dunkelberger read the received written comments into record from Aaron Marconi  
70 and Jamie Hayward.

71 Chair Dunkelberger closed the public hearing.

72

73 **Mr. White moved to approve the plan with the stated condition. Seconded by Vice**  
74 **Chair Kalmar. The motion passed by roll call vote 5-0-0.**

75 **Vice Chair Kalmar read the findings of fact into record. The Board moved to**  
76 **approve each finding, 5-0-0.**

77 **Mr. McDonough and Vice Chair Kalmar read the conditions of approval into**  
78 **record. The Board moved to approve by roll call vote 5-0-0.**

79

80 52:55

81 **ITEM 3— 31 Water Street—Shoreland Development Plan Review**

82 Action: Continue application to a subsequent meeting, set public hearing (discretionary),  
83 or approve or deny application: Pursuant to 16.3 Land Use Regulations, §16.10.3.2  
84 Shoreland Development Review and Article III Nonconformance of §16.7 General  
85 Development Requirements of the Town of Kittery Land Use and Development Code,  
86 owners John A. Brady and Lise B. Sequin and applicant / agent Tyler Jackson requests  
87 approval to replace and expand legally non-conforming structures on a legally non-  
88 conforming lot within the base zone setback of the Shoreland Overlay Zone located on  
89 real property with the address of 31 Water Street, Tax Map 1, Lot 52, in the Residential-  
90 Urban (R-U) zoning district and the Shoreland (OZ-SL-250'), Resource Protection (OZ-  
91 RP) and Commercial Fisheries/Maritime Uses Overlay Zones.

92

93 Amy Dutton presented the project and reviewed the plan.

94 Chair Dunkelberger opened the public hearing.

95 There being no comments, the public hearing was closed.

96

97 **Vice Chair Kalmar moved to approve the plan. Seconded by Mr. Ledgett. The**  
98 **motion passed by roll call vote 5-0-0.**

99 **Vice Chair Kalmar read the findings of fact into record. The Board moved to**  
100 **approve each finding, 5-0-0.**

101 **Vice Chair Kalmar read the conditions of approval into record. The Board moved**  
102 **to approve by roll call vote 5-0-0.**

103

104 **OLD BUSINESS**

105

106 1:17:41

107 **ITEM 1—134 Whipple Road—Shoreland Development Plan Review**

108 Action: Continue the to a subsequent meeting, or approve or deny plan: Pursuant to  
109 §16.10.3.2 Shoreland Development Review and Article III Nonconformance of §16.7  
110 General Development Requirements of the Town of Kittery Land Use and Development  
111 Code, owners Nicolas and Amy Mercier and agent Altus Engineering, Inc. requests  
112 approval to reconstruct, relocate and expand a legally non-conforming structure on a  
113 legally non-conforming lot within the base zone setback of the Shoreland Overlay Zone  
114 located on real property with the address of 134 Whipple Road, Tax Map 10, Lot 6A, in  
115 the Residential-Urban (R-U) Zone and the Shoreland Overlay Zone (OZ-SL-250').

116

117 Erik Saari, Altus Engineering, Inc. updated the Board on any plan changes.

118 Discussion ensued on the landscaping plan and the cupola.

119

120 **Mr. Ledgett moved to approve the application as amended. Seconded by Mr.**  
121 **Perry. The motion passed by roll call vote 5-0-0.**

122 **Vice Chair Kalmar read the findings of fact into record. The Board moved to**  
123 **approve each finding, 5-0-0.**

124 **Mr. McDonough and Vice Chair Kalmar read the conditions of approval into**  
125 **record. The Board moved to approve by roll call vote 5-0-0.**

126

127 The Board took a break at 7:54 PM and reconvened at 7:58 PM.

128

129 **NEW BUSINESS**

130

131 1:59:23

132 **ITEM 4—20 Folcutt Road—Shoreland Development Plan Review**

133 Action: Accept or deny application as complete; if accepted--continue application to a  
134 subsequent meeting set public hearing and/or site walk (discretionary), or approve or  
135 deny application: Pursuant to 16.3 Land Use Regulations, §16.10.3.2 Shoreland

136 Development Review and Article III Nonconformance of §16.7 General Development  
137 Requirements of the Town of Kittery Land Use and Development Code, owner/applicant  
138 Wladislaw Realty Trust and agent Walsh Engineering Associates requests approval to  
139 replace and expand legally non-conforming structures on a legally conforming lot within  
140 the base zone setback of the Shoreland Overlay Zone located on real property with the  
141 address of 20 Folcutt Road, Tax Map 25, Lot 18, in the Residential-Kittery Point Village  
142 (R-KPV) Zone and the Shoreland (OZ-SL-250'), Resource Protection (OZ-RP) Overlay  
143 Zones.

144

145 Bill Walsh, Walsh Engineering Associates, presented the project and reviewed the plans  
146 with the Board.

147 Discussion ensued on the landscaping plan and the boathouse.

148

149 **Mr. Ledgett moved to accept the plan as presented. Seconded by Vice Chair**  
150 **Kalmar. The motion passed by roll call vote 5-0-0.**

151

152 The Board discussed dates for a site walk and public hearing.

153

154 **Vice Chair Kalmar moved to set a site walk on February 1, 2022 at 10 AM.**  
155 **Seconded by Mr. Perry. The motion passed by roll call vote 5-0-0.**

156 **Mr. White moved to schedule a public hearing on February 10, 2022 at 6 PM.**  
157 **Seconded by Mr. Ledgett. The motion passed by roll call vote 5-0-0.**

158  
159 2:35:28

160 **ITEM 5—16 Trefethen Avenue—Shoreland Development Plan Review**

161 Action: Accept or deny application as complete; if accepted--continue application to a  
162 subsequent meeting set public hearing and/or site walk (discretionary), or approve or  
163 deny application: Pursuant to 16.3 Land Use Regulations, §16.10.3.2 Shoreland  
164 Development Review and Article III Nonconformance of §16.7 General Development  
165 Requirements of the Town of Kittery Land Use and Development Code,  
166 owners/applicants Joseph D. and Dierdre M. McEachern and agent Ambit Engineering,  
167 Inc. requests approval to expand legally non-conforming structure on a legally non-  
168 conforming lot within the base zone setback of the Shoreland Overlay Zone located on  
169 real property with the address of 16 Trefethen Avenue Road, Tax Map 10, Lot 25, in the  
170 Residential-Urban (R-U) Zone and the Shoreland (OZ-SL-250'), Resource Protection  
171 (OZ-RP) Overlay Zone.

172  
173 Steven Riker, Ambit Engineering, Inc. presented the project and reviewed the plans with  
174 the Board.

175 Discussion ensued briefly on the lots being two parcels or one combined parcel.

176  
177 **Mr. Ledgett moved to accept the plan as proposed. Seconded by Vice Chair**  
178 **Kalmar. The motion passed by roll call vote 5-0-0.**

179  
180 The Board decided not to hold a site walk.

181  
182 **Vice Chair Kalmar moved to schedule a public hearing for February 10, 2022 at 6**  
183 **PM. Seconded by Mr. White. The motion passed by roll call vote 5-0-0.**

184 **Mr. Ledgett moved to continue the application until February 10, 2022. Seconded**  
185 **by Mr. White. The motion passed by roll call vote 5-0-0.**

186  
187 2:49:17

188 **ITEM 6—28 Wyman Avenue—Preliminary Site Plan Review**

189 Action: Accept application as complete; if accepted--continue application to a  
190 subsequent meeting, or set public hearing and site walk. Pursuant to §16.3 Land Use  
191 Regulations, §16.10. Development Plan Application Review of the Town of Kittery Land  
192 Use and Development Code, owner/applicant Lusitano, LLC, and agent Altus  
193 Engineering, Inc. requests approval demolish the lot's existing structures and construct  
194 3 dwelling units with appurtenant infrastructure on a legally non-conforming lot located

195 on real property with the address of 28 Wyman Avenue, Tax Map 16, Lot 148, in the  
196 Residential-Urban (R-U) zoning district.

197  
198 Erik Saari, Altus Engineering, Inc. presented the application and reviewed the plans with  
199 the Board.

200 Mr. McDonough presented to the Board the correction of this application being a Minor  
201 Subdivision Review and how that affects the plans. Discussion continued on the  
202 wetland and possible vernal pool, with setbacks and DEP input.

203 The applicant will rescind the application and reapply for a Minor Subdivision Review.

204

205 3:00:15

206 **ITEM 7—621 - 623 Haley Road—Medical Marijuana Registered Caregiver Home**  
207 **Establishment**

208 Action: Accept application as complete, continue to a subsequent meeting, set public  
209 hearing and/or site walk (discretionary), or approve or deny application. Pursuant to  
210 §16.3 Land Use Zone Regulations, §16.8 Design and Performance Standards for Built  
211 Environment and §16.10.11 Medical Marijuana Registered Caregiver Home  
212 Establishment of the Town of Kittery Land Use and Development Code, the Planning  
213 Board shall review an application from owner/applicant Wendy Turner, owner of Surf  
214 Sustainable Cannabis, requesting approval for a special exception to operate a Medical  
215 Marijuana Registered Caregiver Home Establishment on real property with an address  
216 of 621 Haley Road (Tax Map 36, Lot 23) and 623 Haley Road (Tax Map 36 – Lot 24)  
217 located in the Residential-Kittery Point Village (R-KPV) zoning district and Resource  
218 Protection (OZ-RP) Overlay Zone.

219

220 Wendy Turner presented her business briefly to the Board.

221 Discussion ensued on the state laws for the medical marijuana businesses. Mr.

222 McDonough read the applicable state statutes into record for the Board.

223 Discussion around odor control, waste management, employees and parking, and  
224 square footage for inside operations ensued.

225

226 **Vice Chair Kalmar moved to accept the application as complete. Seconded by Mr.**  
227 **Ledgett. The motion passed by roll call vote 5-0-0.**

228

229 The Board decided not to hold a site walk or a public hearing.

230 Wendy Turner described the site layout to the Board.

231 Discussion on the ordinance continued briefly.

232

233 **Vice Chair Kalmar moved to approve the application. Seconded by Mr. Ledgett.**

234 **The motion passed by roll call vote 5-0-0.**

235 **Vice Chair Kalmar read the findings of fact into record. The Board moved to**  
236 **approve each finding, 5-0-0.**

237 **Vice Chair Kalmar read the conditions of approval into record. The Board moved**  
238 **to approve by roll call vote 5-0-0.**

239

240 The Board continued Item 8 and Item 9 to the next meeting.

241

242 **ITEM 8—41 Route 236—Preliminary Site Plan Review**

243 Action: Accept application as complete; if accepted--continue application to a  
244 subsequent meeting, or set public hearing and site walk. Pursuant to 16.3 Land Use  
245 Regulations, 16.6.4.D Special Exception Use Request, 16.8 Design Performance  
246 Standards for Built Environment and §16.10 Development Plan Application and Review  
247 of the Town of Kittery Land Use and Development Code, owner LaPierre Properties,  
248 LLC and applicant Well Field 44, LLC with agent Attar Engineering, Inc. requests  
249 approval for a special exception use to construct a 3,150-sf Marijuana Business with  
250 appurtenant infrastructure and to fill 10,384-sf of wetland, located on real property with  
251 the address of 41 Route 236, Tax Map 29, Lot 1, in the Commercial 2 (C-2) zoning  
252 district.

253

254 Continued to the January 27, 2022 meeting due to time limitations.

255

256 **ITEM 9—8 Dexter Lane—Preliminary Site Plan Review**

257 Action: Accept application as complete; if accepted--continue application to a  
258 subsequent meeting, or set public hearing and site walk. Pursuant to 16.3 Land Use  
259 Regulations, 16.6.4.D Special Exception Use Request, 16.8 Design Performance  
260 Standards for Built Environment and §16.10 Development Plan Application and Review  
261 of the Town of Kittery Land Use and Development Code, owner The Outlet Mall of  
262 Kittery, LLC and applicant Tree Tips 3, LLC with agent Attar Engineering, Inc. requests  
263 approval for a special exception use to operate a Marijuana Business within an existing  
264 commercial retail space located on real property with the address of 8 Dexter Avenue,  
265 Unit 8, Tax Map 47, Lot 3, in the Commercial 1 (C-1) zoning district.

266

267 Continued to the January 27, 2022 meeting due to time limitations.

268

269 3:52:18

270 **APPROVAL OF MINUTES-** August 27, 2020; September 10, 2020; & September 24,  
271 2020

272 **Mr. Ledgett moved to accept the minutes of August 27, 2020 as presented.**

273 **Seconded by Mr. Perry. The motion passed by roll call vote 5-0-0.**

274 September 10, 2020: line 81 add in the original motion.

275 **Mr. Ledgett moved to accept the minutes of September 10, 2020 as amended.**

276 **Seconded by Mr. Perry. The motion passed by roll call vote 5-0-0.**

277 **Mr. Ledgett moved to accept the minutes of September 24, 2020 as presented.**

278 **Seconded by Vice Chair Kalmar. The motion passed by roll call vote 5-0-0.**

279

280 **OTHER BUSINESS**

281

282 3:56:08

283 **ITEM 10 – Board Member Items/Discussion**

284

285 Mr. White informed the Board he will not be at the next meeting.

286

287 3:57:04

288 **ITEM 11 – Town Planner/Director of Planning & Development Items**

289

290 Mr. McDonough apologized for the long agenda.

291

292 3:57:46

293 **Adjournment**

294

295 **Vice Chair Kalmar moved to adjourn. Seconded by Mr. Ledgett. The motion**  
296 **passed by roll call vote 5-0-0.**

297

298 The Kittery Planning Board meeting of January 13, 2022 adjourned at 9:58 p.m.

299

300 Submitted by Carrie Varao, Development Staff Clerk on June 8, 2022.

301

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

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

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

305 summary of the discussion and actions that took place. For complete details, please

306 refer to the video of the meeting on the Town of Kittery website at

307 <http://www.townhallstreams.com/locations/kittery-maine>.