

1 **CALL TO ORDER**

2

3 **ROLL CALL**

4

5 Present: Steve Bellantone, Member, Russell White, Member, Ronald Ledgett, Member,
6 Dutch Dunkelberger, Chair and Karen Kalmar, Vice Chair joined at 6:08 PM

7

8 Absent: John Perry, Member, and Drew Fitch, Member

9

10 Staff: Bart McDonough, Town Planner, and Adam Causey, Director of Planning

11

12 Advisory: Earledean Wells, Conservation Commission

13

14 **PLEDGE OF ALLEGIANCE**

15

16 **APPROVAL OF AGENDA**

17

18 **APPROVAL OF MINUTES- None**

19

20 **PUBLIC COMMENTS**

21

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

27 https://us02web.zoom.us/webinar/register/WN_3yExhMCxS-2yUu-Ild0Wvg

28 Further, the public may submit public comments via email, US Mail, or by dropping
29 written comments in the Drop Box outside the Town Hall entrance. Emailed comments
30 should be sent to bmcDonough@kitteryme.org. Comments received by noon on the day
31 of the meeting will become part of the public record and may be read in whole or in
32 summary by the Planning Board Chair or Town Planner.

33

34 Debbie Driscoll and Kate Johnston made a public comment.

35 There being no other comments, the Chair closed the public comments.

36

37 **OLD BUSINESS**

38

39 5:53

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

41 Action: Continue the agenda item to a subsequent meeting, or approve or deny plan:
42 Pursuant to §16.10.3.2 *Shoreland Development Review* and Article III *Nonconformance*
43 of §16.7 *General Development Requirements* of the Town of Kittery Land Use and
44 Development Code, owners Nicolas and Amy Mercier and agent Altus Engineering, Inc.
45 requests approval to reconstruct, relocate and expand a legally non-conforming
46 structure on a legally non-conforming lot within the base zone setback of the Shoreland
47 Overlay Zone located on real property with the address of 134 Whipple Road, Tax Map
48 10, Lot 6A, in the Residential-Urban (R-U) Zone and the Shoreland Overlay Zone (OZ-
49 SL-250).

50

51 Erik Saari, Altus Engineering, Inc. reviewed the plans and noted the changes.
52 Victoria Martel reviewed the landscape plan and answered a question regarding the
53 sugar maple tree.

54 Mr. McDonough relayed DPWs opinion on the plan concerning the maintenance of the
55 riprap.

56 Questions regarding the floor plan and the cupola were discussed. The Board
57 requested legal opinion on the cupola.

58 Earldean Wells asked about the stormwater drains.

59 Nick Mercier made a comment regarding the process.

60

61 **Mr. White moved to continue the application until December 9, 2021. Seconded by**
62 **Mr. Ledgett. The motion passed by roll call vote 5-0-0.**

63

64 **PUBLIC HEARING**

65

66 41:00

67 **ITEM 2—Land Use and Development Code Amendments—Recodification of Title**
68 **16**

69 Action: Continue public hearing to a subsequent meeting, recommend/not recommend
70 to Town Council. Pursuant to M.R.S.A Title 30-A, Chapter 187, §4352 and §16.1.9
71 *Amendments* of the Town of Kittery Land Use and Development Code, the Planning
72 Board will hold a public hearing for a proposed amendment to Title 16 by reorganizing
73 the tile while modifying certain provisions therein to align with the Town's
74 Comprehensive Plan, or taking any other action relative thereto.

75

76 Mr. Causey reviewed the memo with the Board. The Board asked questions regarding
77 the format.

78 Chair Dunkelberger opened the public hearing.

79 Earldean Wells asked about chickens and pigs.
80 Public comments were heard from Debbie Driscoll and Kate Johnston.

81
82 **Mr. Ledgett moved to close the public hearing. Seconded by Vice Chair Kalmar.**
83 Mr. Bellantone asked how many public hearings were held on the item.
84 **The motion passed by roll call vote 5-0-0.**

85
86 **Mr. White moved to recommend to Town Council with the requested changes.**
87 **Seconded by Mr. Ledgett. The motion passed by roll call vote 5-0-0.**

88
89 1:34:47

90 **ITEM 3—523 US Route 1—Preliminary Site Plan Review**

91 Action: Continue public hearing to a subsequent meeting or approve or deny plan;
92 Pursuant to §16.3.2.13 *Mixed-Use*, §16.8 *Design and Performance Standards for Built*
93 *Environment* and Article V *Preliminary Plan Application Review* of §16.10 *Development*
94 *Plan Application* of the Town of Kittery Land Use and Development Code, the Planning
95 Board shall hold a public hearing for a preliminary site plan application from applicant
96 GSC Enterprises, LLC and agent Haley Ward, Inc. requesting preliminary approval to
97 construct 1,010-sf coffee shop with a drive-through with appurtenant infrastructure and
98 landscaping on real property with an address of 523 U.S. Route 1 (Tax Map 68, Lot 26)
99 located in the Mixed-Use (MU) Zone.

100
101 Mr. McDonough told the Board that the applicant has requested more time. A traffic
102 analysis plan has been submitted that will need to be reviewed by DOT and staff.

103
104 **Vice Chair Kalmar moved to continue to December 9, 2021. Seconded by Mr.**
105 **Ledgett. The motion passed by roll call vote 5-0-0.**

106
107 1:37:17

108 **ITEM 4— 35 Tilton Avenue—Medical Marijuana Registered Caregiver Home**
109 **Establishment**

110 Action: Continue public hearing to a subsequent meeting, schedule a site walk
111 (discretionary), or approve or deny application. Pursuant to §16.3.2.4 *Residential-*
112 *Urban*, §16.8 *Design and Performance Standards for Built Environment* and §16.10.11
113 *Medical Marijuana Registered Caregiver Home Establishment* of the Town of Kittery
114 Land Use and Development Code, the Planning Board shall review an application from
115 applicant Delta Lab, LLC requesting approval to operate a Medical Registered
116 Caregiver Home Establishment on real property with an address of 35 Tilton Ave. (Tax
117 Map 16, Lot 178) located in the Residential-Urban (R-U) Zone.

118

119 Tammie Snow gave an update to the Board, including the odor plan and the lease.
120 The site walk was discussed. Legal opinion on access to the site was requested.

121

122 Chair Dunkelberger opened the public hearing.

123

124 Public comments were heard from Mary Carey, 37 Tilton Avenue; Marj Fimple, 46 Tilton
125 Avenue; Ray Slaughenhoup, 40 Tilton Avenue; Lyn Rosoff, 61 Tilton Avenue; Kyle
126 Bohunsky, 54 Tilton Avenue; and Shannon Hill, 8 Colonial Road.

127 Chair Dunkelberger read written comments into the record from Shaye Robbins,
128 Katherine Ciak, David Leach, and Linda Patch.

129 Mr. McDonough read written comments into the record from Timothy Lawrence,
130 Stephen Webber, Cheri Davis and Ron Bohunsky, Faith Easter, Joseph Paolini, Kevin
131 Cambridge, Nancy Cambridge, and Janice Schenker.

132

133 Tammie Snow addressed some of the concerns from the public, noting: the business
134 will be delivery only; the differences between medical caregiver business verses
135 recreational business; state oversight; home occupation license; legally non-conforming
136 buildings; Town Council's role in the ordinance; and odor plan specs.

137

138 Mr. McDonough read text comments from Zoom.

139 Public comments were heard from Mary Carey, Lyn Rosoff, and Ron Bohunsky.

140

141 Chair Dunkelberger closed the public hearing.

142 Chair Dunkelberger asked questions to staff regarding the application. Legal opinion
143 was requested for several questions. Fire inspection and waste management questions
144 asked. Discussion on who can access and inspect the property ensued briefly. The
145 ventilation system mentioned and engineer review requested.

146

147 **Mr. Ledgett moved to continue to January 27, 2022. Seconded by Mr. White. The**
148 **motion passed by roll call vote 5-0-0.**

149

150 The Board took a break at 8:54 PM and reconvened at 8:58 PM.

151 Chair Dunkelberger asked the Board if Item 9 could be addressed next, as "Old
152 Business". The Board agreed.

153

154 **OLD BUSINESS**

155

156 2:57:10

157 **ITEM 9— 89 Route 236—Final Site Plan Review**

158 Action: Accept or deny application as complete, continue to a subsequent meeting,
159 approve or deny final plan. Pursuant to *Commercial (C-1, C-2, C-3)*, §16.8 *Design and*
160 *Performance Standards for Built Environment* and Article VII *Final Plan Review and*
161 *Decision of §16.10 Development Plan Application* of the Town of Kittery Land Use and
162 Development Code, the Planning Board shall consider a final site plan application from
163 applicant/owner JD Investment Inc. and agent Jones & Beach Engineers, Inc.
164 requesting final approval to expand the existing parking lot by 11 spaces totaling 3,400-
165 sf. of additional impervious surface with appurtenant stormwater infrastructure on real
166 property with an address of 89 Route 236 (Tax Map 28, Lot 14-2) located in the
167 Commercial-2 (C2) Zone.

168
169 Erik Poulin gave an overview and update of the plan. Mr. Poulin reviewed the changes,
170 addressing prior comments from CMA.

171 The Board asked questions on the pre-treatment of the waste inside the restaurant and
172 in the system.

173 Earledean Wells asked about the snow storage areas and landscaping in perpetuity.

174

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

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

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

181

182 **NEW BUSINESS**

183

184 3:22:46

185 **ITEM 5—Land Use and Development Code Amendments—Amendment to**
186 **16.3.2.17.B.(10)(b) Special exception uses**

187 Action: Continue to subsequent meeting, set public hearing, Pursuant to M.R.S.A Title
188 30-A, Chapter 187, §4352 and §16.1.9 *Amendments* of the Town of Kittery Land Use
189 and Development Code, the Planning Board shall hold a public hearing for a proposed
190 amendment to Title 16 filed by Ryan T. Ward that petitions to add the use of a
191 Marijuana Retail Store to §16.3.2.17.B(10)(b) which would permit the use as a special
192 exception within the Shoreland Overlay Zone (OZ-SL-250) of the Commercial 1 (C-1)
193 zone district.

194

195 Mr. McDonough gave an overview of the Item to the Board.

196 Sean Turley gave an overview and a history of the amendment.
197 Discussion on Town Council's intent was asked of staff.

198
199 **Vice Chair Kalmar moved to schedule a public hearing on 12/9/2021. Seconded by**
200 **Mr. Ledgett. The motion passed by roll call vote 5-0-0.**

201
202 3:32:30

203 **ITEM 6— 52 State Road—Shoreland Development and Preliminary Site Plan**
204 **Review**

205 Action: Accept application as complete; continue application to a subsequent meeting,
206 set public hearing and site walk: Pursuant to §16.3 *Land Use Regulations*, Article III
207 *Nonconformance* of §16.7 *General Development Requirements* and §16.10
208 *Development Plan Application* and review of the Town of Kittery Land Use and
209 Development Code, owner/applicant Kevin Cambridge and agent Attar Engineering Inc.
210 requests approval expand a legally nonconforming commercial structure and construct
211 a 26 spaced parking lot with stormwater improvements lot on real property with an
212 address of 52 State Road, (Tax Map 3, Lot 1) located in the Business-Local 1 (B-L1)
213 Zone and the Shoreland Stream Protection Overlay Zone (OZ-SP-75).

214
215 Mr. McDonough gave an update to the Board, including the stream. Eardean Wells
216 reported the stream has been on the maps since the 1800's, and there has been
217 impact. It is of the opinion that it should remain classified a stream.

218
219 Michael Sudak, Attar Engineering, Inc. gave an overview of the project. He reviewed the
220 site plans. The stormwater management plan was discussed. The outstanding items
221 were reviewed briefly.
222 Parking counts discussed.

223
224 **Mr. White moved to accept the application as complete. Seconded by Mr. Ledgett.**
225 **The motion passed by roll call vote 5-0-0.**

226
227 **Vice Chair Kalmar moved to extend the meeting until 10:30 PM. Seconded by Mr.**
228 **Ledgett. The motion passed by roll call vote 5-0-0.**

229
230 The Board discussed dates for a site walk.
231 **Vice Chair Kalmar moved to schedule a site walk on 11/30/2021 at 9 AM.**
232 **Seconded by Mr. White. The motion passed by roll call vote 5-0-0.**
233 **Mr. White moved to schedule a public hearing on 12/9/2021 at 6 PM. Seconded by**
234 **Vice Chair Kalmar. The motion passed by roll call vote 5-0-0.**

235

236 4:00:36

237 **ITEM 7— 31 Water Street—Shoreland Development Plan Review**

238 Action: Accept or deny application as complete; if accepted--continue application to a
239 subsequent meeting set public hearing and/or site walk (discretionary), or approve or
240 deny application: Pursuant to 16.3 *Land Use Regulations*, §16.10.3.2 *Shoreland*
241 *Development Review* and Article III *Nonconformance* of §16.7 *General Development*
242 *Requirements* of the Town of Kittery Land Use and Development Code, owners John A.
243 Brady and Lise B. Sequin and applicant / agent Tyler Jackson requests approval to
244 replace and expand legally non-conforming structures on a legally non-conforming lot
245 within the base zone setback of the Shoreland Overlay Zone located on real property
246 with the address of 31 Water Street, Tax Map 1, Lot 52, in the Residential-Urban (R-U)
247 Zone and the Shoreland (OZ-SL-250), Resource Protection (OZ-RP) and Commercial
248 Fisheries/Maritime Uses Overlay Zones.

249

250 Tyler Jackson gave an overview of the application.

251 The Board asked questions regarding the garage and the change of use, building
252 heights, expansion of structures and setbacks, elevations and existing heights.

253

254 **Vice Chair Kalmar moved to accept the plan. Seconded by Mr. Ledgett. The**
255 **motion passed by roll call vote 5-0-0.**

256 Site walk date discussed.

257 **Vice Chair Kalmar moved to schedule a site walk on 11/30/2021 at 10 AM.**

258 **Seconded by Mr. White. The motion passed by roll call vote 5-0-0.**

259 **Mr. White moved to schedule a public hearing on 12/9/2021 at 6 PM. Seconded by**
260 **Vice Chair Kalmar. The motion passed by roll call vote 5-0-0.**

261

262 4:18:06

263 **ITEM 8— 32 Mendum Ave—Shoreland Development Plan Review**

264 Action: Accept or deny application as complete; continue application to a subsequent
265 meeting, set public hearing and/or site walk (discretionary), or approve or deny
266 application: Pursuant to 16.3 *Land Use Regulations*, §16.10.3.2 *Shoreland*
267 *Development Review* and Article III *Nonconformance* of §16.7 *General Development*
268 *Requirements* of the Town of Kittery Land Use and Development Code, owners Daniel
269 D. Sullivan and Michelle A. Sullivan and applicant / agent Steven Ellis requests approval
270 to replace a legally nonconforming deck and patio in kind on a legally nonconforming lot
271 within the base zone setback of the Shoreland Overlay Zone located on real property
272 with the address of 32 Mendum Ave., Tax Map 3, Lot 50, in the Residential-Urban (R-U)
273 Zone and the Shoreland (OZ-SL-250), Resource Protection (OZ-RP) Overlay Zones.

274
275 Mr. McDonough gave a brief overview, stating the application is for an in-kind
276 replacement only. The Board discussed the need for more vegetation and a site walk.

277
278 **Vice Chair Kalmar moved to accept the application. Seconded by Mr. White. The**
279 **motion passed by roll call vote 5-0-0.**

280 **Vice Chair Kalmar moved to approve the plan with waivers. Seconded by Mr.**
281 **White. The motion passed by roll call vote 4-1-0. Mr. Ledgett voted in the**
282 **negative.**

283 **Mr. White moved to extend the meeting until 10:35 PM. Seconded by Mr.**
284 **Bellantone. The motion passed by roll call vote 5-0-0.**

285 **Vice Chair Kalmar read the findings of fact into record. The Board moved to**
286 **approve the findings 5-0-0.**

287 **Mr. White moved to extend the meeting five minutes. Seconded by Vice Chair**
288 **Kalmar. The motion passed.**

289 **Vice Chair Kalmar read the conditions of approval into the record. The Board**
290 **moved to approve by roll call vote 4-0-1. Mr. Ledgett abstained.**

291
292 **OTHER BUSINESS**

293
294 **ITEM 10 – Board Member Items/Discussion**

295
296
297 **ITEM 11 – Town Planner/Director of Planning & Development Items**

298
299
300 4:34:11

301 **Adjournment**

302
303 **Mr. White moved to adjourn. Seconded by Vice Chair Kalmar. The motion passed**
304 **5-0-0.**

305
306 The Kittery Planning Board meeting of November 18, 2021 adjourned at 10:36 p.m.

307
308 Submitted by Carrie Varao, Development Staff Clerk on May 19, 2022.

309
310 Disclaimer: The following minutes constitute the author's understanding of the meeting.
311 Whilst every effort has been made to ensure the accuracy of the information, the
312 minutes are not intended as a verbatim transcript of comments at the meeting, but a
313 summary of the discussion and actions that took place. For complete details, please

314 refer to the video of the meeting on the Town of Kittery website at
315 <http://www.townhallstreams.com/locations/kittery-maine>.