

1 **CALL TO ORDER**

2

3 **ROLL CALL**

4

5 Present: Steve Bellantone, Member; Ronald Ledgett, Clerk; Russell White, Member;
6 John Perry, Member; Drew Fitch, Member; Karen Kalmar, Vice Chair, and Dutch
7 Dunkelberger, Chair

8

9 Absent: None.

10

11 Staff: Bart McDonough, Town Planner

12

13 Advisory: Earldean Wells, Conservation Commission

14

15 **PLEDGE OF ALLEGIANCE**

16

17 **APPROVAL OF MINUTES- None.**

18

19 **PUBLIC COMMENTS**

20

21 Public comment and opinion are welcome during this open session. However,
22 comments related to development projects currently under review by the Planning
23 Board shall be heard only during their respective scheduled public hearing. Due to the
24 current pandemic, all meetings and public hearings held by the Planning Board are
25 conducted via Zoom webinar. To register in advance for the webinar, please submit a
26 request to bmcdonough@kitteryme.org. After registering, you will receive a confirmation
27 email containing information about joining the webinar. Webinar participants will be able
28 to submit questions and comments during the public hearing and public comment
29 period. Members of the public unable to participate during the webinar may submit
30 comments for agenda items via email, US Mail, or by dropping written comments in the
31 Drop Box outside the Town Hall entrance. Emailed comments should be sent to
32 bmcdonough@kitteryme.org. Comments received by noon on the day of the meeting
33 will be read into the record by the Planning Board Chair.

34

35 There being none the Chair closed the public comments.

36

37

38

39

40 **OLD BUSINESS**

41

ITEM 1 – 2 Old Ferry Lane—Shortland Development Plan Review

42

43 Action: Accept or deny plan as complete; continue application to a subsequent meeting,
44 schedule site walk and/or public hearing; approve or deny plan: Pursuant to §16.7.3.3.B
45 Nonconforming structure repair and/or expansion and §16.10.3.4 Shoreland
46 Development Review of the Town of Kittery Land Use Development Code, owner
47 Forbes-Taylor Trust and applicant Elliot Architects requests approval to expand a legally
48 nonconforming dwelling unit on a legally nonconforming lot within the base zone
49 setback of the Shoreland Overlay Zone by 225-sf on real property with an address of 2
50 Old Ferry Lane, Tax Map 17 - Lot 14, located within the Residential-Urban (R-U) zone
51 and the Shoreland (OZ-SL-250) and Resource Protection (OZ-RP) Overlay Zones.

52

53 Mr. McDonough reintroduced the project and reviewed the events that transpired prior
54 to the meeting. Topics included were a legal opinion on expansion activities within the
55 25-ft. setback of the Shoreland Overlay Zone and the land acquisition by the applicant
56 to accommodate the project. Mr. McDonough then asked Mr. Papadopoli to comment
57 on the application.

58

59 Mr. Papadopoli went on to explain the changes made to the plan since the last time the
60 Planning Board reviewed the project. He continued by illustrating how the plan
61 conformed with the pertinent standards such as the 25-ft. setback requirement. He then
62 asked if the Planning Board had any questions on the updated plan.

63

64 Vice Chair Kalmar inquired if the foundation of the existing dwelling unit was to be
65 maintained, to which Mr. Papadopoli confirmed it was indeed to remain with slight
66 modifications to accommodate and support the dwelling unit's new architecture.

67

68 Mr. Ledgett commented that if it were the case the foundation were to be removed and
69 replaced it would make the project more complicated as additional standards would
70 become operative.

71

72 Mr. Ledgett continued, stating that there were many outstanding pieces unresolved and
73 posed the question whether or not the Planning Board should reserve their motion for
74 final approval until all aspects of the plan were settled. A follow-up question was asked
75 by Mr. Ledgett inquiring whether a site visit would be beneficial or not.

76

77 Chair Dunkelberger agreed that verification of the accuracy and completeness of the
78 land transfer is essential to have finalized prior to moving forward to a final vote on the
79 application.

80

81 Mr. Papadopoli interjected, stating that he has the information that the Planning Board
82 was requesting.

83

84 Chair Dunkelberger denied the offer as the Planning Board would need more time to
85 review any new materials.

86

87 Chair Dunkelberger continued by posing the question relative to the necessity of a site
88 walk. A debate ensued with the conclusion that a site walk indeed would be beneficial to
89 the Planning Board so as to better understand the application's nuances.

90

91 Thereafter, Chair Dunkelberger solicited a vote to accept the application as complete.

92

93 **Mr. White moved to accept the plan as complete.**

94 **Mr. Ledgett seconded.**

95

96 Vice Chair Kalmar sought clarification during the discussion period of the motion on the
97 necessary steps the applicant must complete before the Planning Board could move
98 forward with a final vote.

99

100 **The motion carried by roll call vote: 7-0-0**

101

102 Mr. Papadolpoli asked if there were any other issues that needed to be address before
103 the application was to return to the Planning Board for final approval, to which no
104 additional items were enumerated.

105

106 Ms. Wells inquired whether or not the dwelling unit was to be connected to the sewer
107 system, to which Mr. Papadopoli confirmed it was indeed to be connected to the Town's
108 sewer system.

109

110 Mr. Ledgett remarked on how the volume within the 25-ft. setback was not to change
111 with this application and commented that Mr. Papadopoli did an excellent job working
112 within the confines of the pertinent zoning ordinances.

113

114 Chair Dunkelberger revisited the question of holding a site visit, to which a debate
115 ensued with the conclusion that it was still sought after and ultimately the Planning
116 Board selected the date of June 15, 2021, at 11:00 am to have it.

117

118 **Vice Chair Kalmar motioned to hold the site walk on June 15, 2021 at 11:00 am at
119 2 Old Ferry Lane.**

120 **Mr. White seconded.**

121 **The motion carried by roll call vote: 7-0-0.**

122

123 **Vice Chair Kalmar then moved to continue the application.**

124 **Mr. White seconded.**

125

126 **The motion carried by roll call vote: 7-0-0.**

127

128

129 **ITEM 2- 21 Litchfield Road—Final Plan Review, Cluster Subdivision**

130

131 Action: Continue to a subsequent meeting; approve or deny final plan. Pursuant to Title
132 30-A M.R.S.A. §4401-4408 Municipal Subdivision Law and §16.10, Article VII Final Plan
133 Review and Decision of the Town of Kittery Land Use and Development Code, the
134 Planning Board shall to consider an application from owner Brenda Haley and applicant
135 Chingburg Development, LLC requesting approval for a cluster subdivision development
136 proposing eight (8) lots with 9 units (two (2) existing and seven (7) proposed) with
137 appurtenant infrastructure on real property with an address of 21 Litchfield Road (Tax
138 Map 46, Lot 6) located in the Residential-Rural (R-RL) Zone and Shoreland-Stream
139 Protection (OZ-SL-75) Overlay Zone.

140

141 Chair Dunkelberger opened the agenda item.

142

143 Mr. McDonough recapitulated the events leading up to the present constitution of the
144 application and discussed the preliminary review conditions of approval.

145

146 Mr. McDonough the asked Mr. Weinrieb (applicant's agent) to comment on the updated
147 plan, to which Mr. Weinrieb reviewed the actions taken and changes made to the plan
148 to qualify for final plan review.

149

150 Chair Dunkelberger asked whether or not the subdivision road would remain private, to
151 which Mr. Weinrieb replied that the private road would indeed remain under the
152 ownership of the Housing Association.

153

154 Vice Chair Kalmar requested that the Land Stewardship Plan be clearly referenced in
155 the HOA documents to which the applicant agreed to ensure its inclusion therein.

156
157 Chair Dunkelberger solicited the Planning Board for additional comments. Hearing
158 none, he requested a motion to be made for final approval.

159
160 **Mr. White motion to approve the application with the following conditions:**

- 161 **1. No changes, erasures, modifications or revisions may be made to any**
162 **Planning Board approved final plan. (Title 16.10.9.1.2)**
- 163 **2. Applicant/contractor will follow Maine DEP Best Management Practices for**
164 **all work associated with site and building construction to ensure adequate**
165 **erosion control and slope stabilization.**
- 166 **3. Prior to the commencement of grading and/or construction within a building**
167 **envelope, as shown on the Plan, the owner and/or developer must stake all**
168 **corners of the envelope. These markers must remain in place until the Code**
169 **Enforcement Officer determines construction is completed and there is no**
170 **danger of damage to areas that are, per Planning Board approval, to remain**
171 **undisturbed.**
- 172 **4. All Notices to Applicant contained in the Findings of Fact (dated: 06/10/2021**
- 173 **5. Incorporate any plan revisions on the final plan as recommended by Staff,**
174 **Planning Board, or Peer Review Engineer, and submit for Staff review prior**
175 **to presentation of final plan for endorsement.**
- 176 **6. The Home Owners Association (HOA) document must be reviewed and**
177 **found satisfactory by the Shoreland Resource Officer and the Town Attorney**
178 **prior to the final Mylar being signed by the Chair.**
- 179 **7. Provide the additional documents and/or responses to all CMA comments**
180 **prior to presentation of final plan.**

181
182 **Second by Mr. Ledgett.**

183
184 **The motion carried by roll call vote: 7-0-0.**

185
186 **Vice Chair Kalmar read the findings of fact and the Planning Board voted to affirm**
187 **each finding by roll call vote: 7-0-0.**

188
189
190
191
192

193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231

ITEM 3 -Board Member Items / Discussion

Chair Dunkelberger started a discussion relative to the Planning Board Bylaws and how the bylaws call for the Planning Board to attend training sessions relative to Planning Board responsibilities and relative legislation.

An ensuing discussion occurred on electing Planning Board members to leadership positions. The Planning Board decided to keep those members in their current position and revisit the item at their December meeting.

Mr. White motioned to re-nominate retroactively all members in Planning Board leadership positions.

Mr. Fitch seconded.

Chair Dunkelberger clarified during the motion’s discussion period that the Planning Board was still to maintain its normal reorganizing schedule.

Motion carried by roll call vote: 7-0-0.

Vice Chair Kalmar introduced for discussion two legislative initiatives (constitutional amendments) that would take away any home rule control from municipalities relative to growing food and controlling environmental standards. A discussion ensued ending with Vice Chair Kalmar sending the proposed language to other members so as to become more familiar with its provisions and potential consequences.

Mr. Ledgett continue the discussion by informing the Planning Board of a draft Accessory Dwelling Unit legislative initiative at the state house which intended to limit a municipality’s home rule regulatory powers insofar as to allow by right accessory dwelling units on residential lots.

The Board ultimately decided to work towards generating support from Town Council and pen a letter to state representatives that would express their concerns over the aforementioned legislative initiatives. Chair Dunkelberger volunteered to draft the letter and Mr. White and Vice Chair Kalmar to be editors. After editing, Chair Dunkelberger expressed that he would share it with the rest of the Planning Board before sending it the letter to intended recipients.

232 Chair Dunkelberger also commented that he would seek to petition Town Council for
233 support after the letter has been drafted.

234

235

236

237 **ITEM 4- Town Planner / Director of Planning & Development Items**

238

239 Mr. McDonough discussed projects to be reviewed at the next Planning Board meeting.
240 A brief discussion occurred concerning proposed zoning amendments, Planning Board
241 priority list and the proposed Marijuana Ordinance before Town Council.

242

243 After the discussion, the Planning Board sought for a motion to adjourn.

244 Adjournment

245

246 **Mr. White moved to adjourn the meeting. Vice Chair Kalmar seconded the motion.**

247

248 **The motion carried by roll call vote 7-0-0.**

249

250 The Kittery Planning Board meeting of June 10, 2021 adjourned at 7:15 p.m.

251

252 Submitted by Bart McDonough, Town Planner on July 20, 2021.

253

254 Disclaimer: The following minutes constitute the author's understanding of the meeting.
255 Whilst every effort has been made to ensure the accuracy of the information, the minutes
256 are not intended as a verbatim transcript of comments at the meeting, but a summary of
257 the discussion and actions that took place. For complete details, please refer to the video
258 of the meeting on the Town of Kittery website at
259 <http://www.townhallstreams.com/locations/kittery-maine>.

260

261