

**ITEM 5**

**Town of Kittery  
Planning Board Meeting  
November 17, 2022**

**ITEM 5 - 6 Chauncey Creek Road – Shoreland Development Plan Review.**

Action: Accept or deny application. Approve or deny plan. Owners and applicants, Beneficial Owner Andy Kaplan with approval from legal owner Creek House Nominee Trust (Matthew J. Downey Trustee) requests consideration to construct a 2’-6” x 4’-6” concrete pad for a generator on a nonconforming single family dwelling on a 871 +/- square foot upland section of the parcel located at real property 6 Chauncey Creek Road (Tax Map 44 Lot 71) in the Residential Kittery Point Village (R-KPV), Shoreland Overlay (OZ-SL-250’) and Resource Protection (OZ-RP) zones.

**PROJECT TRACKING**

REQ'D	DESCRIPTION	COMMENTS	STATUS
YES	Determination of Completeness	Pending	Pending
NO	Public Hearing	Optional	Optional
NO	Site Walk	Optional	Optional
Yes	Final Plan Review and Decision	TBD	TBD

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 recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN ¼: 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:**

Planning Board review of this project is required by **§16.10.3.4** Shoreland Development Review, because the proposed development is located within the required 250-foot setback in the Shoreland Overlay Zone. The parcel includes a nonconforming single-family dwelling unit on piers going over Chauncey creek, the unit has a deck and float dock. The lot is a non-conforming area (40,000 sf is minimum), street frontage (150 feet required) or front yard setback (40 feet required) for the R-KPV zone. The lot size is 871.20 sq ft.

The applicant proposes to build a 2’-6” x 4’-6” concrete pad for a backup generator on the upland section of the lot 10’ from the HAT line. This location is the only suitable location on site. This is the only suitable location on site above the HAT line and can legally fit within the land area of the small lot size. The location of the storage of fuel should be determined to meet compliance.

**§16.3.2.17.D.d.** The total footprint of devegetated area must not exceed twenty (20) percent of the lot area located within the 250’ Shoreland Overlay Zone. Exceptions apply in the following zones:

**Devegetated Area** means the total area of all existing and proposed structures, driveways, parking areas and other non-vegetated surfaces located in the Shoreland Overlay Zone. The property currently has a devegetated area of 16% and the proposed devegetated area is 17% i.e. 138 sqft existing and 149 sqft proposed.

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26 **Staff Review:**

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27 The application meets the requirements to install the concrete pad for a backup generator. CEO reviewed the  
28 application and the definitions for structure §16.5.23 "and electricity generators and propane and oil tanks for  
29 residential use only and the pads on which they are located, provided the pad is than 20 square feet in size"  
30 DEP does not allow an exception for generators inside the Shoreland Zone per Chapter 1000. That is the impetus  
31 for this application being reviewed by the planning board.

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33 **Staff Recommendations:**

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34 Staff suggests acceptance of the application and approval of the plan.

35 Determine where storage of fuel will take place.

36 **Recommended Motions:**

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37 *Move to accept the application* by Owners and applicants, Beneficial Owner Andy Kaplan with approval from  
38 legal owner Creek House Nominee Trust (Matthew J. Downey Trustee) requests consideration to construct a 2'-6"  
39 x 4'-6" concrete pad for a generator on a nonconforming single family dwelling on a 871 +/- square foot upland  
40 section of the parcel located at real property 6 Chauncey Creek Road (Tax Map 44 Lot 71) in the Residential Kittery  
41 Point Village (R-KPV), Shoreland Overlay (OZ-SL-250') and Resource Protection (OZ-RP) zones.

42 *Move to approve the plan* by Owners and applicants, Beneficial Owner Andy Kaplan with approval from legal  
43 owner Creek House Nominee Trust (Matthew J. Downey Trustee) requests consideration to construct a 2'-6" x 4'-  
44 6" concrete pad for a generator on a nonconforming single family dwelling on a 871 +/- square foot upland section  
45 of the parcel located at real property 6 Chauncey Creek Road (Tax Map 44 Lot 71) in the Residential Kittery Point  
46 Village (R-KPV), Shoreland Overlay (OZ-SL-250') and Resource Protection (OZ-RP) zones.

47 *Move to continue the application* by Owners and applicants, Beneficial Owner Andy Kaplan with approval  
48 from legal owner Creek House Nominee Trust (Matthew J. Downey Trustee) requests consideration to construct a  
49 2'-6" x 4'-6" concrete pad for a generator on a nonconforming single family dwelling on a 871 +/- square foot  
50 upland section of the parcel located at real property 6 Chauncey Creek Road (Tax Map 44 Lot 71) in the Residential  
51 Kittery Point Village (R-KPV), Shoreland Overlay (OZ-SL-250') and Resource Protection (OZ-RP) zones.

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