



Town of Kittery
200 Rogers Road, Kittery, ME 03904
Board of Appeals Meeting Agenda

Hybrid Meeting

Public may attend in person in Town Council Chambers or via zoom at:
https://us02web.zoom.us/webinar/register/WN_NYMWzZa9SDq14yOQNIPFHA

Tuesday, March 22, 2022
Regular Meeting – 6:30 P.M.

- 1. Call to Order; Introductory; Roll Call**
- 2. Pledge of Allegiance**
- 3. Agenda Amendment and Adoption**
- 4. Executive session (if required)**
- 5. Public Hearings**
 - Melissa Harrington, tenant, 21 Litchfield Road, requesting a Special Exception Use per Town Code Section 16.2.12.D(4) to operate a catering and event hosting business as a Major Home Occupation in the Residential Rural Zone.
 - Dean Gallant, on behalf of the Kittery Art Association, 8 Coleman Ave, requesting a Miscellaneous Variation per Town Code Section 16.2.12.D(3) to convert an existing art gallery to residential use.
- 6. Unfinished Business**
- 7. New Business**
- 8. Acceptance of Previous Minutes**
 - March 22, 2022
- 9. Board Member or CEO Issues or Comment**
- 10. Adjournment**

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Careers Jobs

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Part-time Caregiver wanted for elderly woman, Dover NH. Duties include preparing, purchasing or dining out of dinner time with an 84 year old woman suffering from moderate dementia. Excellent pay. Please email loneforbush@yahoo.com.

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for the latest...

Govt Bids & Proposals

NOTICE OF PUBLIC HEARING
TOWN OF KITTERY -
BOARD OF APPEALS

Meeting Location: Town Council Chambers, 200 Rogers Road, Kittery
Public may attend in person or via zoom at:
https://us02web.zoom.us/j/wnr/register/WN_CBEzL4_HQ
RWyzDCSxg4lww
Tuesday, April 12, 2022 - 6:30 p.m.
Melissa Harrington, tenant, 21 Litchfield Road, requesting a Special Excavation Use per Town Code Section 16.2.12.D(4) to operate a catering and event hosting business as a Major Home Occupation in the Residential Rural Zone.
Application Information is available for public inspection by appointment only between 8:00 am to 6:00 pm, Monday through Thursday, at the Development Department located in Kittery Town Hall.
To request a reasonable accommodation for this meeting please contact staff.
April 4th, 2022

NOTICE OF PUBLIC HEARING
TOWN OF KITTERY -
BOARD OF APPEALS

Meeting Location: Town Council Chambers, 200 Rogers Road, Kittery
Public may attend in person or via zoom at:
https://us02web.zoom.us/j/wnr/register/WN_CBEzL4_HQ

Govt Bids & Proposals

RWyzDCSxg4lww
Tuesday, April 12, 2022 - 6:30 p.m.
Deen Gallant, on behalf of the Kittery Art Association, 8 Coleman Ave, requesting a Miscellaneous Variance per Town Code Section 16.2.12.D(3) to convert an existing art gallery to residential use.
Application Information is available for public inspection by appointment only between 8:00 am to 6:00 pm, Monday through Thursday, at the Development Department located in Kittery Town Hall.
To request a reasonable accommodation for this meeting please contact staff.
April 4th, 2022

Govt Public Notices

NOTICE OF PUBLIC HEARINGS

The City of Dover City Council will be holding a public hearing on April 13, 2022 at 7:00 pm on the following issues:
FISCAL YEAR 2023 BUDGET APPROPRIATIONS, FEES AND CAPITAL IMPROVEMENTS PROGRAM
(IF THE VOTE WILL EXCEED THE TAX CAP LIMITATION, IT REQUIRES A 2/3 MAJORITY OF THE CITY COUNCIL IN ORDER TO PASS.)
(TO BE REFERRED TO A SCHOOL DEPARTMENT PORTION PUBLIC HEARING ON APRIL 13, 2022, AND THE CITY PORTION PUBLIC HEARING ON APRIL 20, 2022.)
SPONSORED BY MAYOR CARRIER BY REQUEST
The public hearing will be held in the Council Chambers of City Hall. Copies of the above-mentioned item are available in the City Clerk's office.

PUBLIC HEARING

The South Berwick Municipal Officers will hold a public hearing on Tuesday, April 12, 2022 at 6:30pm at Town Hall 180 Main St., to receive comment on the proposed budget for fiscal year 2022/2023.
A copy of the budget is available for viewing at the Town Hall in the Town Manager's Office.

**Town of Lebanon, Maine
Board of Appeals
Notice of Public Hearing**

Monday, April 11, 2022 @ 6:00 pm a Public Hearing has been requested for a Setback Variance by Eric Bergendahl. The property is located at 270/272 Carl Brogall Highway, Map R08 Lot 52. The Public Hearing will be held at the Town Office, 15 Upper Guinea Road. A Site Visit will take place on Monday, April 11, 2022 at 4:00 pm.

PHOTOS are worth a thousand words included in your ad.

Public Notices

APPOINTMENT OF FIDUCIARIES

Notice is hereby given that the following fiduciaries have been duly appointed by the Judge of Probate for Stratford County.
All persons having claims against these decedents are requested to exhibit them for adjustment and all indebted to make payment.
Andersen, Peter Carl, late of Durham, NH. Martha Sander-son Andersen, 8 Chesley Drive, Durham, NH 03824. #319-2022-ET-00085
Baldwin, Adam, late of Rochester, NH. Jacqueline Baldwin, 4 Pebblestone Ln, Rochester, NH 03867. #319-2022-ET-00048
Couture, Joseph L.H., late of Dover, NH. Richard L. Couture, 500 Dudley Road, Alton, NH 03809. #319-2022-ET-00054
Darling, Germaine Ruth, late of Milton, NH. Sonia LePage, PO Box 297, Milton, NH 03851. #319-2022-ET-00061
Driscoll, Martha A.Y., late of Dover, NH. Ann E. Driscoll, 7 Seaborn Drive, Dover, NH 03820. #319-2022-ET-00087
Hilton, John, late of Rochester, NH. Patricia A Hilton, PO Box 348, North Hampton, NH 03862. #319-2022-ET-00080
Hrubant, Anna A., late of Rochester, NH. Eric Hrubant, 7 Montgomery Court, Kennebunk, ME 04043. John D. Macintosh, Esquire, Resident Agent, Law Office of John D. Macintosh, PC, 24 Montgomery Street, Concord, NH 03301-4311 #319-2022-ET-00102
Kearney, Kevin M, late of Durham, NH. Keith Kearney, 21 Maltopelsett Road, Acushnet, MA 02743. Christopher Thomas Regan, ESQ, Resident Agent, Bamford Dedopoulos & Regan, 68 Main St, Durham, NH 03824. #319-2021-ET-00893
Kelley, Eva N., late of Somersworth, NH. Jeffrey L. Kelley, 6 Pinecrest Avenue, Rochester, NH 03867. #319-2021-ET-00932
Laurenti, Georges Lucien, late of Rochester, NH. David William Laurenti, 16 Tierra Dr, P.O. Box 858, Milton, NH 03851. #319-2022-ET-00195
Slinson, Jeffrey A., late of Barrington, NH. Jordan Bedell, 14 Green Rd, Raymond, NH 03077. #319-2021-ET-00968
Thebeault, Dale Lynn, late of Barrington, NH. Denise Louise Belyeo, 379 Portland Street Apt. C, Rochester, NH 03867. #319-2022-ET-00021
Wagner, Kermit, late of Stratford, NH. James Kriete, 18 Kim Lane, Rochester, NH 03867. #319-2021-ET-00961
Dated: 4/1/2022

Public Notices

TOWN OF SEABROOK

The Seabrook Water Department will be flushing its water mains April 15, 2022 through June 15, 2022, Monday through Friday excluding weekends.
There may be some low pressure and discolored water at this time. The department wishes to apologize for any inconvenience, but feels the improvement will make it worthwhile. Please check Channel 22 and the website www.seabrooknh.info for details.
Any questions, please call (603) 474-9921.
(The dates are dependent on the weather and staffing.)

AMENDED LEGAL NOTICE
HISTORIC DISTRICT COMMISSION
PORTSMOUTH, NEW HAMPSHIRE

NOTICE IS HEREBY GIVEN that the Historic District Commission will hold a Public Hearing Application #1135 on Wednesday, April 13, 2022. The meeting will begin at 6:30 p.m. and will be held in the Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Jinkins Avenue, Portsmouth, New Hampshire.

This petition is in addition to the already posted Legal Notice for the Historic District Commission meeting on Wednesday, April 13, 2022

PUBLIC HEARINGS

1. Petition of Market Wharf Condominium Association, owner, for property located at 33 Deer Street, wherein permission is requested to allow renovations to an existing property (extend 3rd floor decks, replace balcony railings, lighting and other miscellaneous improvements) as per plan on file in the Planning Department. Said property is shown on Assessor Map 119 as Lot 1B and lies within Character District 5 (CD5), Downtown Overlay, and Historic Districts.
Members of the public also have the option to join the meeting over Zoom. A unique meeting ID and password will be provided once you register. Registration information will be provided on the meeting agenda when it is posted to the web page. For technical assistance, please contact the Planning Department by email (planning@cityofportsmouth.com) or by phone 610-7216.
Those interested in submitting written comments should email planning@cityofportsmouth.com or mail to the Planning Department, City Hall, 1 Jinkins Ave, Portsmouth, NH 03801. Comments for any public hearings that are received by 4:00 pm the day of the meeting will be incorporated into the record of the meeting.
Beverly Mesa-Zendt, Planning Director

Public Notices

Title 16 Amendments to the Kittery Town Code—Business Local and Business Local-1 Zoning Districts.

Pursuant to M.R.S.A Title 30-A, Chapter 187, §4352 and §16.1.7 Amendments of the Kittery Town Code, the Town Council shall hold a public hearing on April 11, 2022, at 6 pm in Council Chambers of the Kittery Town Hall with an address of 200 Rogers Road, Kittery ME for an amendment to Title 16 proposed by the Town of Kittery seeking to amend zoning standards for the Business Local and Business Local-1 zoning districts, or taking any other action relative thereto.
Members of the public are welcome to participate in person or via Zoom Webinar by following the link below and preregistering:
https://us02web.zoom.us/j/wnr/register/WN_EldivabRzSSnBhxipR5OA

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that there are potential vacancies for the following Boards and Committees:
• 1 Regular Member to Building Code Board Appeals
• 1 Alternate Member to Building Code Board Appeals - The vacancy if filled would need to be electrical engineer or mechanical engineer
• 2 Regular Members to Cable Television Communications Commission
• 1 Alternate Member to Cable Television Communications Commission
• Regular Members to Cemetery Committee (9 18 members)
• 4 Regular Members: Historic District Committee (pending submission renewal applications)
• 1 Alternate Member: Historic District Committee (pending submission renewal applications)
• 2 Regular Members to Peirce Island Committee
• 1 Regular Member to Portsmouth Housing Authority
• Sustainable Practices Ribbon Committee welcoming new member
• 2 Alternate Members to Zoning Board of Appeals Applications are available at the Office of the City Clerk and on the City's Website <http://www.cityofportsmouth.com/cityclerk/boardscommittees.htm>. If you have any questions, contact the Office of the Clerk at 610-7208.
KELLI L. BARN MCM/CNHMC CITY CLERK

Title 16 Amendments to the Kittery Town Code—Regulation of Solar Energy Systems

Pursuant to M.R.S.A Title 30-A, Chapter 187, §4352 and §16.1.7 Amendments of the Kittery Town Code, the Town Council shall hold a public hearing on April 11, 2022, at 6 pm in Council Chambers of the Kittery Town Hall with an address of 200 Rogers Road, Kittery ME for an amendment to Title 16 proposed by the Town of Kittery seeking to establish and regulate solar energy systems, or taking any other action relative thereto.
Members of the public are welcome to participate in person or via Zoom Webinar by following the link below and preregistering:
https://us02web.zoom.us/j/wnr/register/WN_EldivabRzSSnBhxipR5OA

A copy of the proposed amendments to Title 16 is on file with the Planning Department and may be obtained from and reviewed

Public Notices

of Town Hall during normal business hours, by calling 475-1323 or emailing towncomments@kittery.me. All interested persons are invited to attend the public hearing in person or remotely as instructed above, and will be given opportunity to speak at a hearing or submit public comments either via email towncomments@kittery.me or Mail by dropping written comments in the Drop Box outside the Town Hall entrance. Comments received by noon on the day of the meeting will be posted online with the agenda and may be read into the record by the Planning Board Chair.

PHOTOS

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BOA-22-1

Board of Appeals Application

Status: Active

Date Created: Mar 10, 2022

Applicant

Melissa Harrington
sundaysupper.me@gmail.com
21 Litchfield Rd.
Kittery, Maine 03904
6037626064

Location

21 LITCHFIELD ROAD
KITTERY, ME 03904

Owner:

Chinburg Builders
3 Penstock Way Newmarket , NH 03857

Property Owner Information

Full Legal Name(s)

Eric Chinburg

Mailing Address

3 Penstock Way

State

NH

Phone Number

6038685995

City

Newmarket

Zip Code

03857

Email Address

echinburg@chinburg.com

Applicant if different from Property Owner

Full Legal Name (s)

Melissa Harrington

Mailing Address

21 litchfield Rd .

State

ME

City

Kittery

Zip Code

03904

Phone Number

6037626064

Email Address

sundaysupper.me@gmail.com

Property Information**Street Address**

21 Litchfield Rd

Lot size in acreage

3.8

Tax Map

46

Lot Number

6-1

Base Zone(s)

residential rural

Overlay Zone(s)

no

Is the Subject Property located within a Shoreland Overlay or Resource Protection Overlay?

No

Is the Subject Property located in a floodplain?

No

Does the Subject Property have any outstanding code violations?

No

If the Subject Property has an outstanding code violation, will approval for your request by the Board of Appeals provide resolution?

No

Application to Appear before the Board of Appeals

I wish to appear before the Board of Appeals to request:

A Special Exception Use Request**Special Exception Use Request****Title**

Special Exception Request

Chapter and Section

16.2.12

Special Exception Use Request Affirmations

Please check all boxes to confirm

Use request must: 1. Not have an unreasonably adverse effect on the health, safety or general welfare of the residents of the area or the general public; 2. Not significantly devalue abutting property or property across a public or private way; 3. Not prevent the orderly and reasonable use of permitted or legally established uses in the zone wherein the proposed use is to be located, or of permitted or legally established uses in adjacent use zones; 4. Not have an adverse impact on spawning grounds, fish, aquatic life, or bird or other wildlife habitats; 5. Be in harmony with and promote the general purposes and intent of this Code; 6. Adequately provide for the disposal of all wastewater; 7. Conserve shore cover and visual, as well as actual, points of access to inland waters; 8. Protect archaeological and historic resources as designated in the Comprehensive Plan; and, 9. Avoid problems associated with floodplain development and use.



Board may establish additional conditions, including, but not limited to, the following: 1. Front, side or rear yards in excess of minimum requirements; 2. Modifications of the exterior features of buildings or other structures; 3. Limitations on the size of buildings and other structures more stringent than the minimum or maximum requirements; 4. Regulation of design of access drives, sidewalks and other traffic features; 5. Off-street parking and loading spaces in excess of the minimum requirements; or, 6. Restrictions on hours of operation.



Proposed use may: 1. Not have an adverse effect. In making this determination, the Board shall take into consideration the potential effect of the development on the environment from air, water or soil pollution; noise; traffic congestion; soil erosion; the burden on sewage disposal or water supply systems or other municipal facilities, services or public ways; and any other relevant factors.



Proposed use may: 2. Not significantly devalue abutting properties. In making its determination, the Board shall take into consideration the type of structure proposed; the topography of the area; the market value of surrounding real estate; the availability of utilities and transportation; the availability of schools and hospitals; traffic conditions; and any other relevant factors.



Proposed use may: 3. Not give rise to any grave concern regarding the expectations as listed above.



Proposed use may: 4. Be subject to such additional conditions as the Board deems necessary.



I understand that the Board of Appeals may hear and decide a special exception use request within the limitations set forth in Title 16.



I understand that the Board of Appeals appears to have jurisdiction to hear this request; hearing must be held within 30 days of this request filing; application must be complete; and, public and abutter notice must be made no less than seven days prior to the scheduled hearing.



I understand that the Board of Appeals will conduct this hearing De Novo (meaning the Board acts if it were considering the question for the first time, affording no deference to the preceding agency decisions; may receive new evidence and testimony consistent with this Town Code Title 16 and the Board rules; and, conduct additional hearings and receive additional evidence and testimony).



Will determine my Burden of Proof: 1. What does the ordinance/statute require the applicant to prove? 2. Does the ordinance/statute prohibit or limit the type of use being proposed? 3. What factors must be considered under ordinance/statutes to decide whether to grant the request? 4. Is the evidence presented substantial? Is it credible? Is it outweighed by conflicting evidence?



Requires substantial evidence as the Standard of Review for this request, meaning: "More than a mere scintilla". It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The preponderance of evidence standard is met if the proposition is more likely to be true than not true. The standard is satisfied if there is greater than fifty percent chance that the proposition is true.



May hear, decide, and approve variations in accordance with the criteria listed in Town Code Title 16, Section 2.12.D(4); and may consider other Title 16 standards.



Approval may not be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any state law which the municipality is responsible for enforcing.



Is only legally authorized to deal with issues arising from the list above; and do not include such matters as constitutionality, civil rights, criminal acts, property disputes, surliness, etc.



Will not even hear my appeal unless I can show that I have "standing" to have my complaint heard.



Purpose of establishing by case for "standing" is to limit appeals on an issue to those who are directly involved and/or affected.



Will try to decide my case based only on the factual information presented and what is written in the pertinent Town ordinance/regulation, State statute(s)/regulation(s) and the rulings of the State Supreme Judicial Court.



Tries to make decisions it believes would be upheld if appealed to the Superior Court.



Special Exception Use Request Statements

Describe the general nature of the request:

I understand from speaking with Dave Evans at the code enforcers office that my request has been flagged for appeal because I wish to operate a catering buisness in my barn that will occassionally host small events of less than 25 people, all of which will be private events not open to the public and that hosting guests might not be allowed under the current zoning.

Certification of Application

Applicant's Signature

Melissa A Harrington
03/10/2022




Name of Applicant

Melissa Harrington

Date

03/10/2022

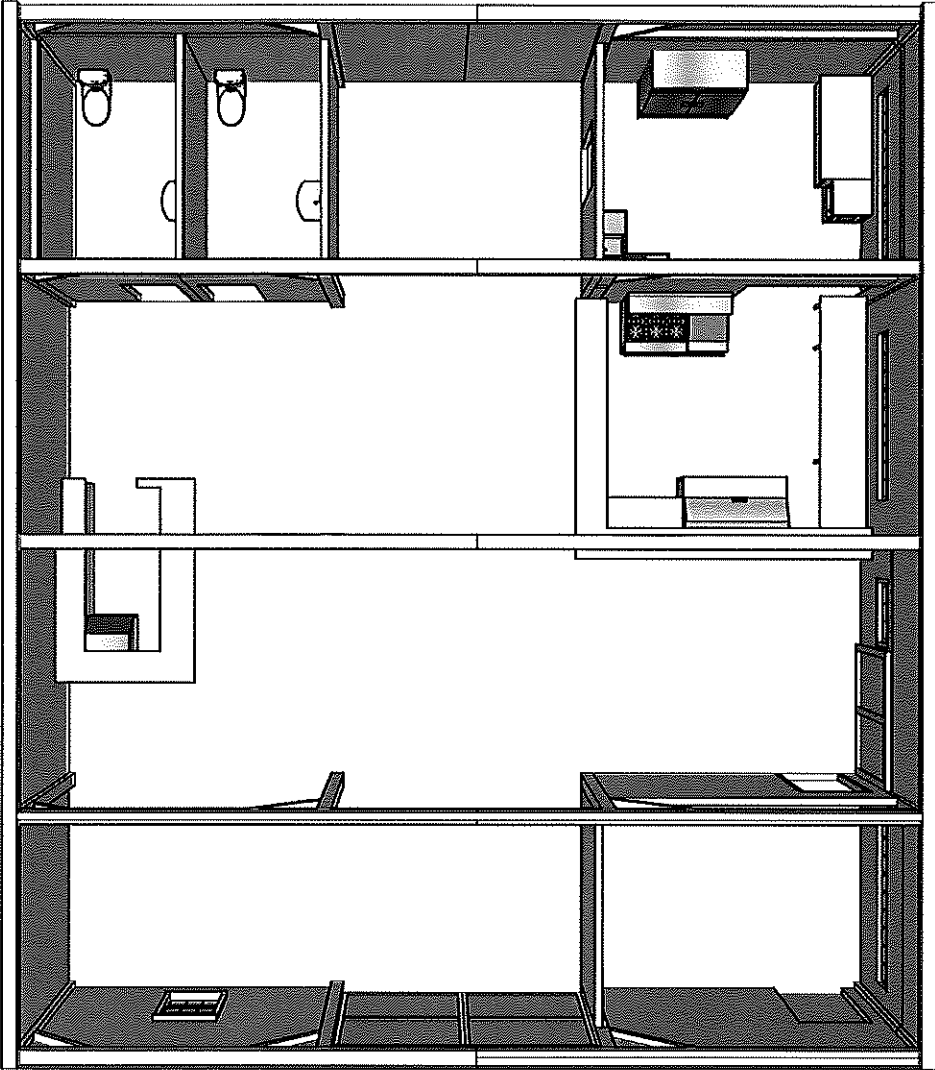
Attachments

-  Sunday Supper Concept Drawings (1).pdf
Uploaded by Melissa Harrington on Mar 10, 2022 at 3:01 pm
-  Sunday Supper Concept Drawings (1).pdf
Uploaded by Melissa Harrington on Mar 10, 2022 at 3:08 pm
-  Sunday Supper Concept Drawings (1).pdf
Uploaded by Melissa Harrington on Mar 10, 2022 at 3:01 pm

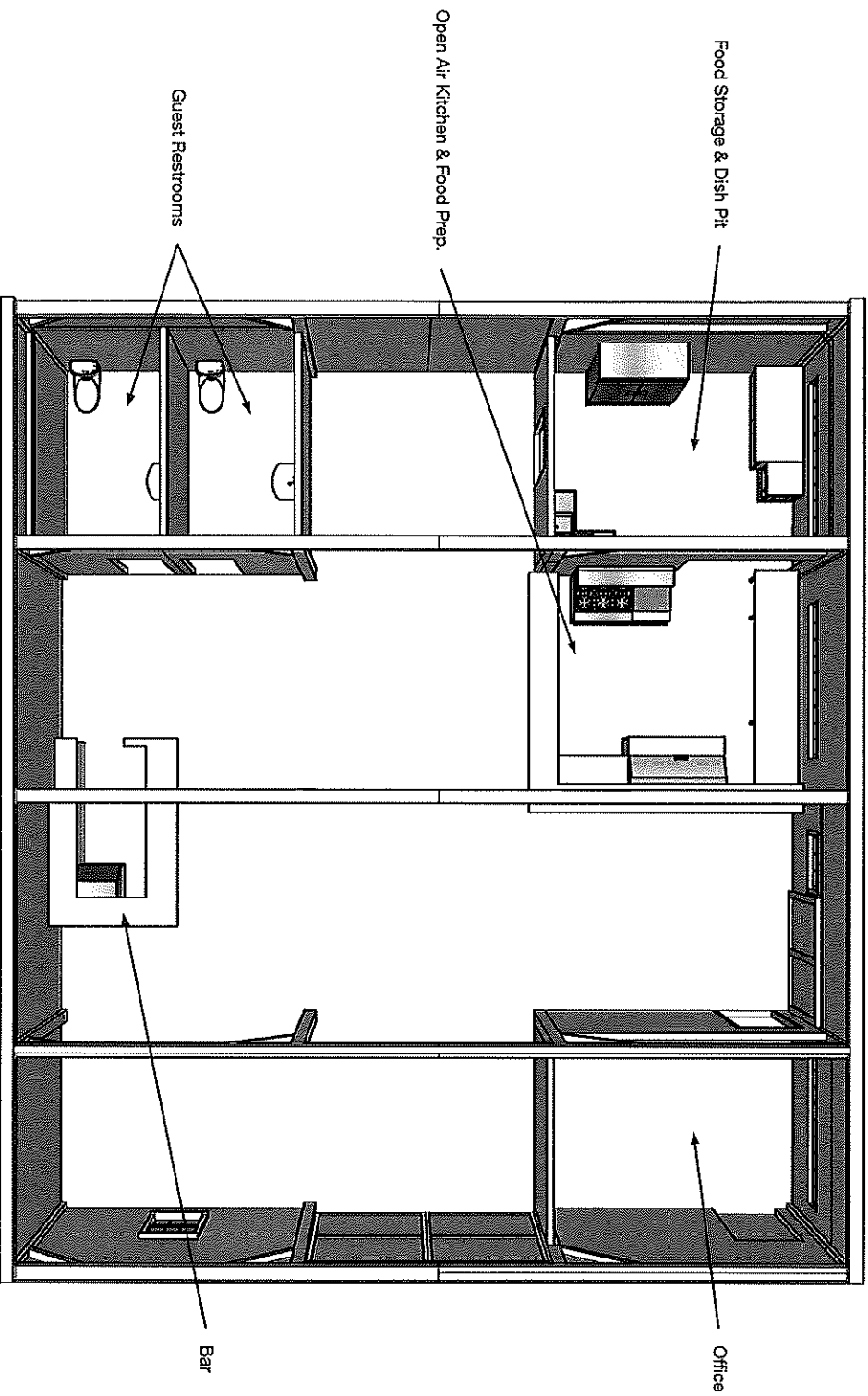
Sunday Supper || *Concept Drawings*

June 21st, 2021

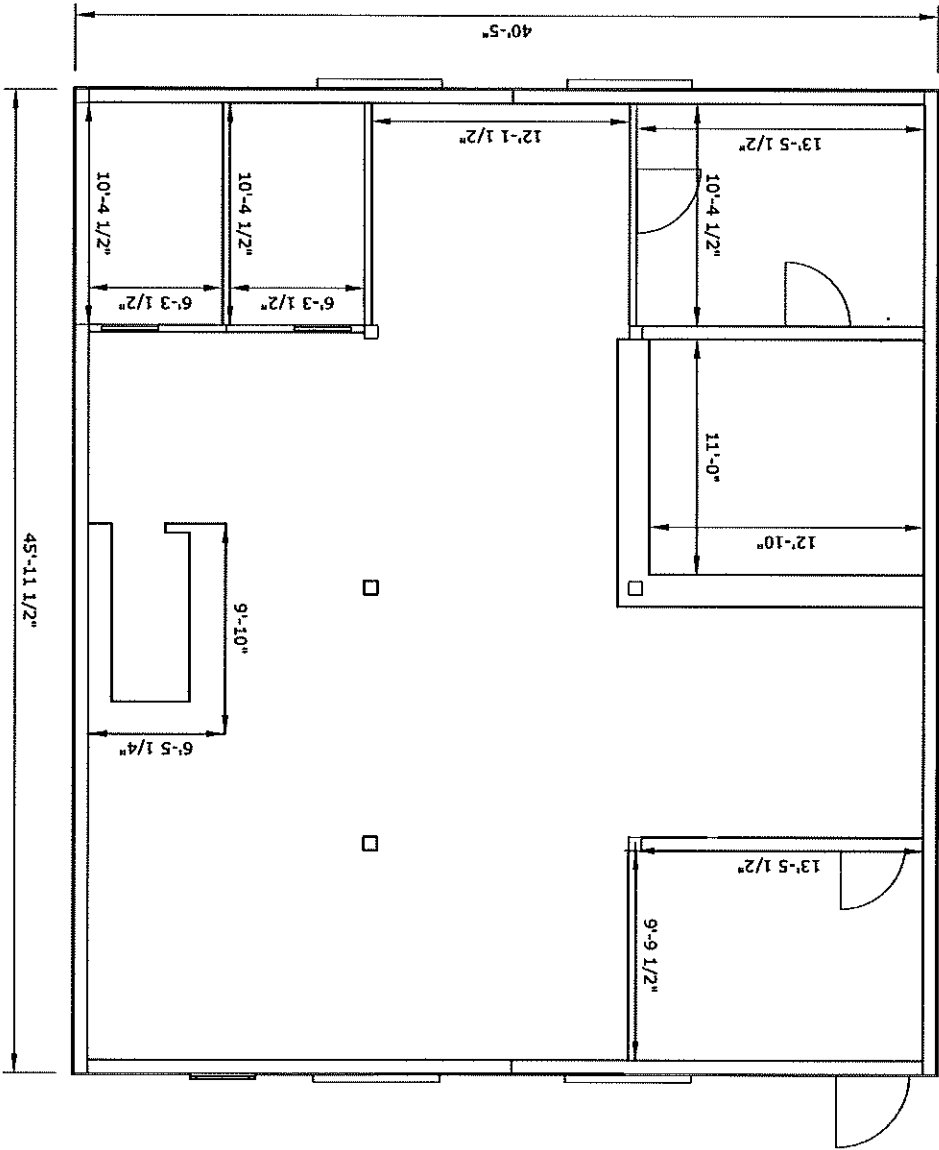
Floor Plan Overview



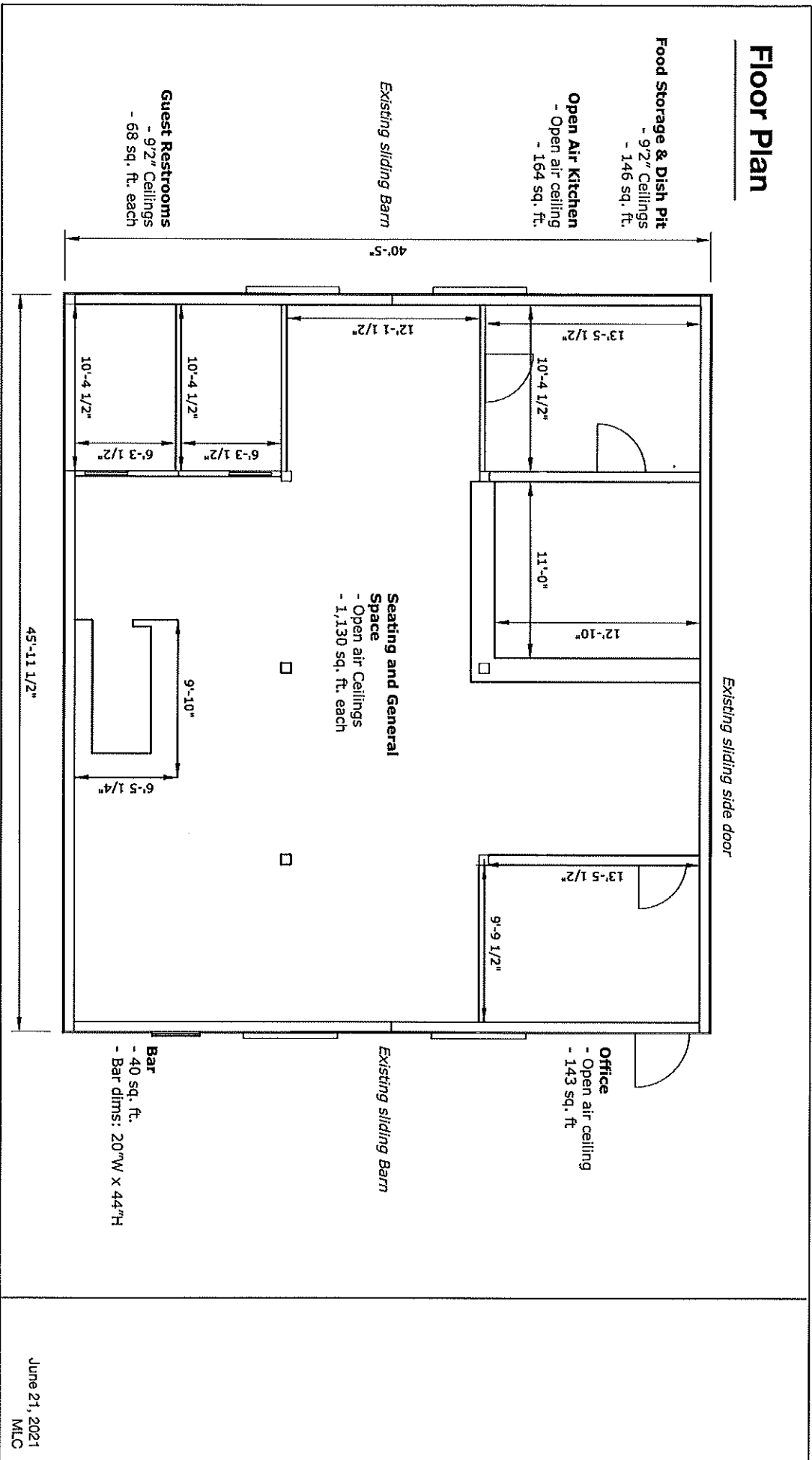
Floor Plan



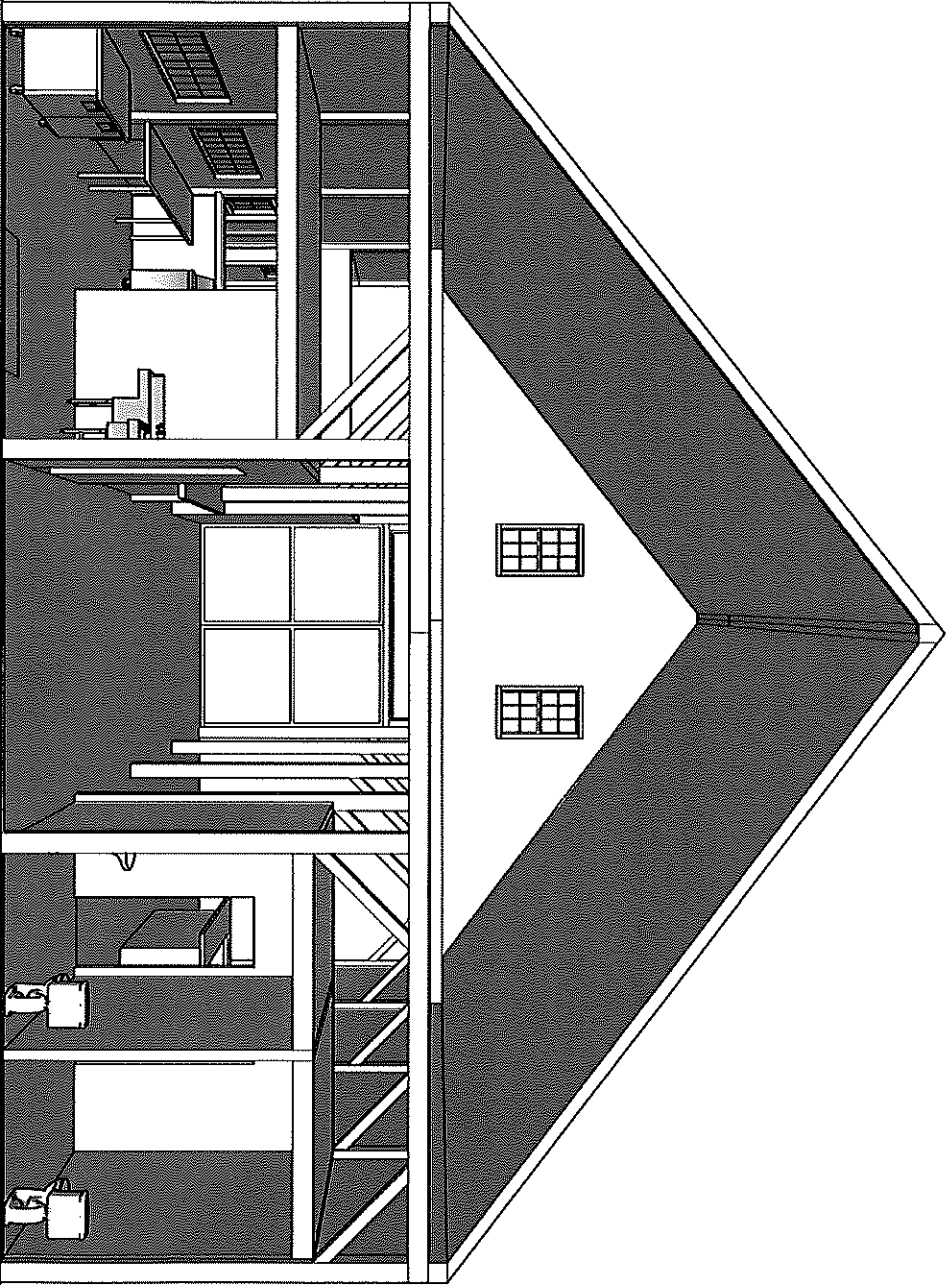
Floor Plan



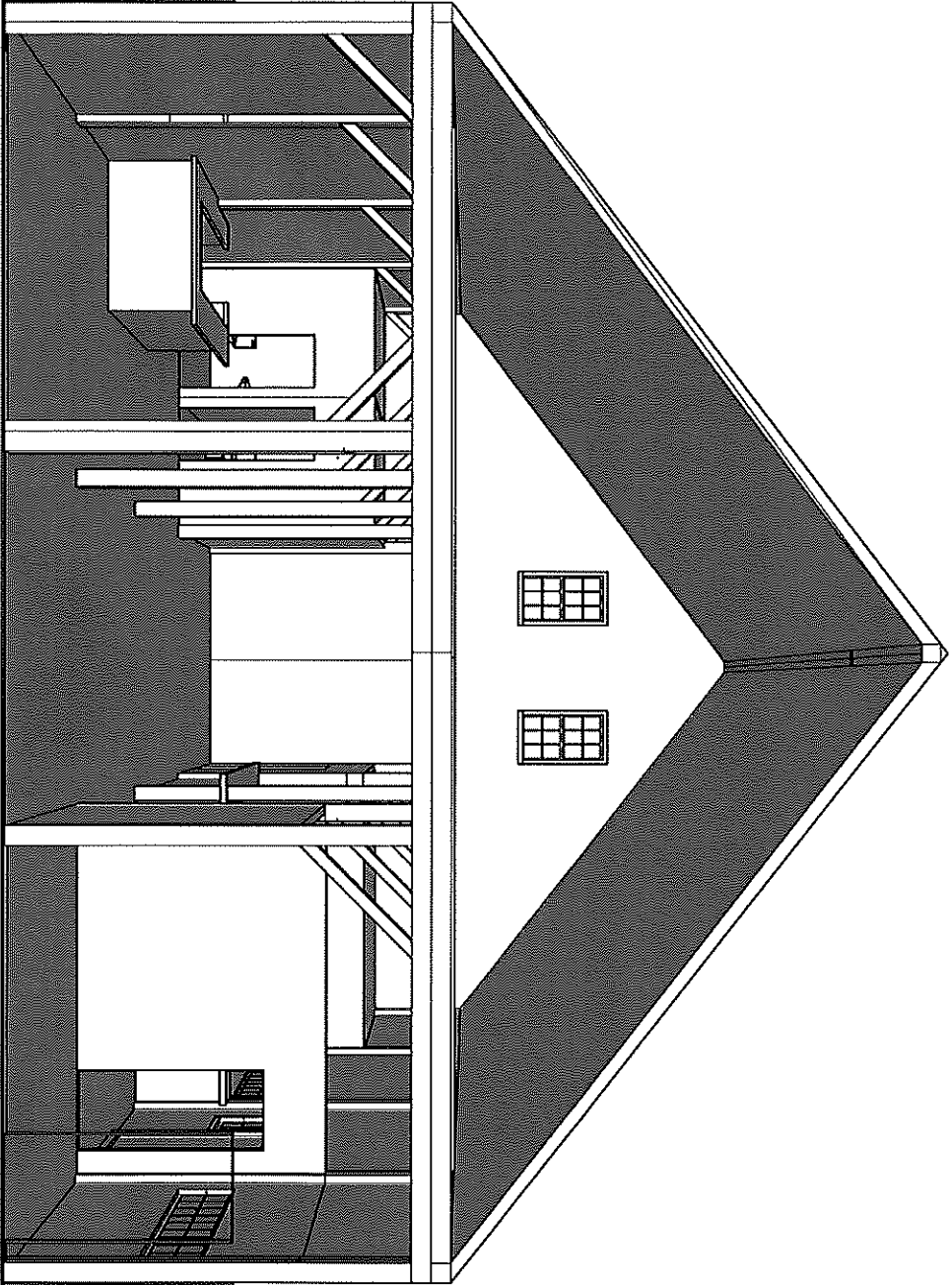
Floor Plan



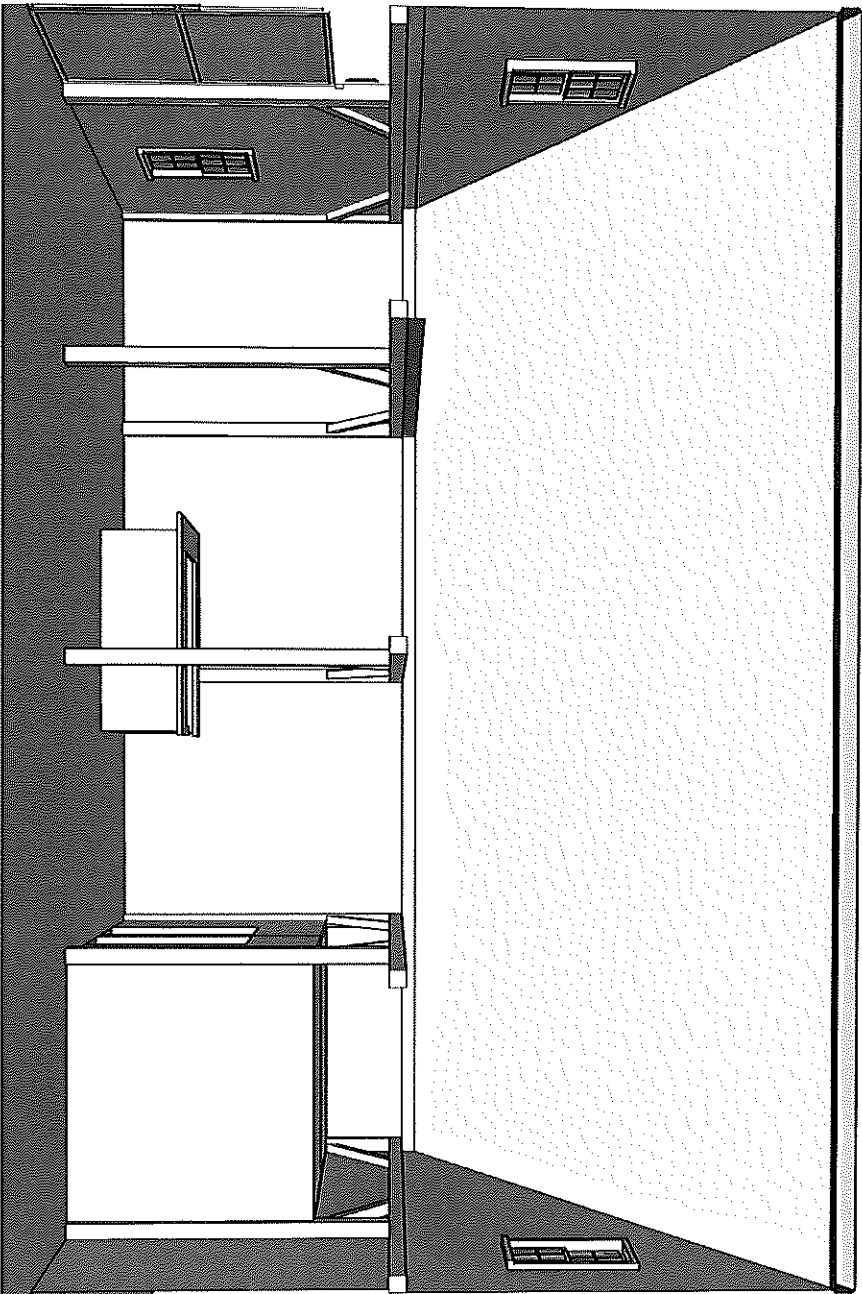
Front Cross Section



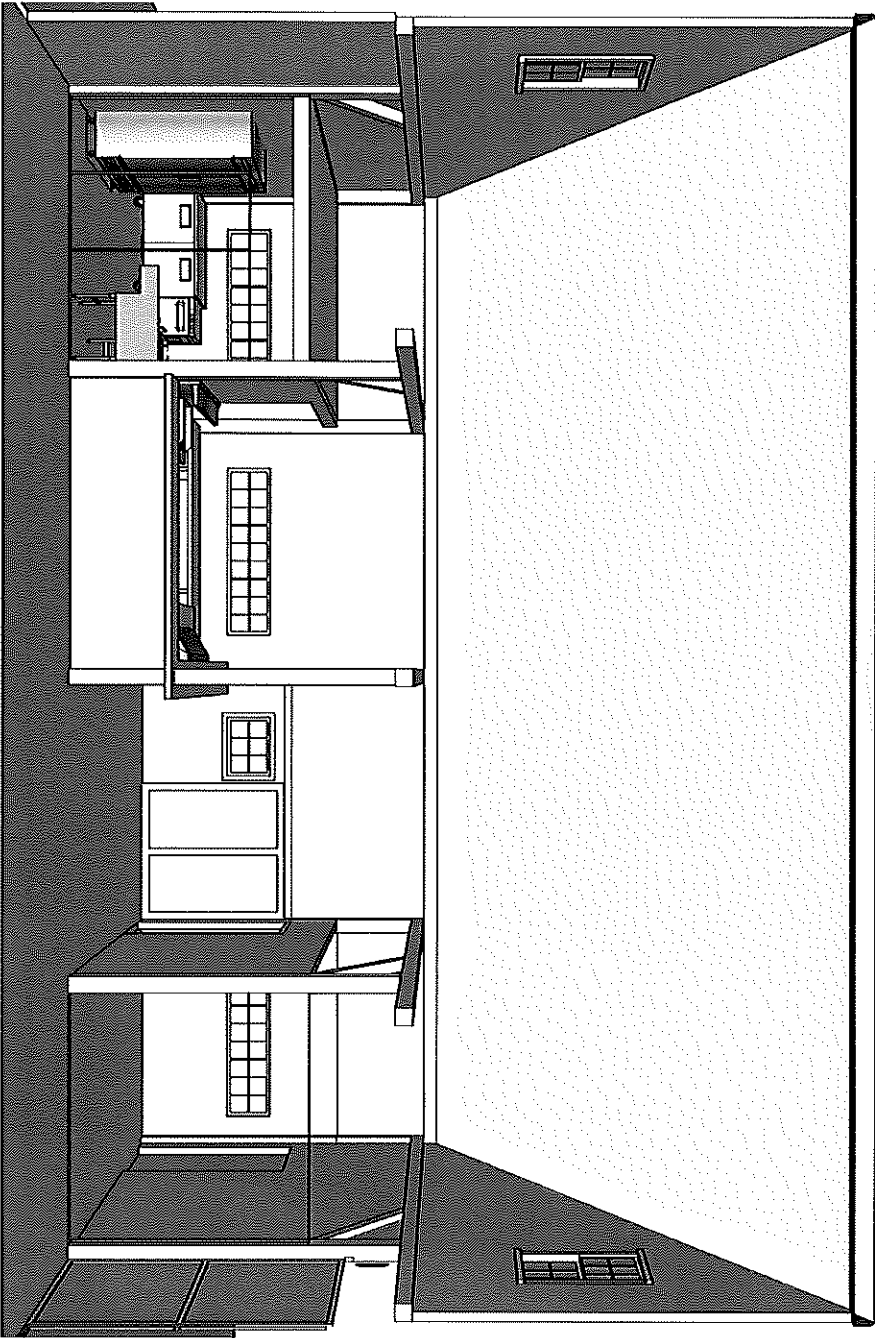
Rear Cross Section



Bar Wall Cross Section



Kitchen Wall Cross Section





PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT

BOA Meeting Date: April 12, 2022

Item #: SE2022-01

STAFF REPORT – 21 LITCHFIELD ROAD – SPECIAL EXCEPTION USE REQUEST /
MAJOR HOME OCCUPATION

Project Name: 21 Litchfield Road

Applicant: Melissa Harrington

Owner: Chinburg Development LLC

Proposed Development: Major home occupation: catering/small event hosting

Requests: Special Exception Use request per Section 16.4.10.C(2) for a Major Home Occupation to operate a catering/small event hosting business in the Residential Rural (R-RL) zone.

Site Addresses: 21 Litchfield Road

Map & Lot Numbers: Map 46 Lot 6



Current Zoning:

Residential - Rural (R-RL) – The purpose of the R-RL zone is to protect the prevailing rural character of the Town and its natural rural quality from development sprawl by prescribing the most appropriate uses and standards.

The existing dwelling use is permitted by right in the zone. The following uses are permitted as a Special Exception Use in the R-RL Zone: (2) Home Occupation, Major.

Staff Recommendation: APPROVAL WITH CONDITIONS of Special Exception Use request.

District Standards:

| Residential – Suburban Zoning District Standards | | | |
|--|-----------|---------------------------|---------|
| Land Area per DU (min) | 40,000 sf | Front Yard Setback (min.) | 40 feet |
| Building Coverage (max.) | 20% | Rear Yard Setback (min.) | 20 feet |
| Lot Size (min) | 40,000 sf | Side Yard Setback (min.) | 20 feet |

Current Use: Dwelling unit with detached barn.

Surrounding Land Uses:

West: Residential – Residential – Rural (R-RL), Shoreland Overlay, dwelling unit

East: Transportation – Maine Turnpike, Interstate 95

North: Residential – Residential – Rural (R-RL), dwelling unit

South: Transportation – Maine Turnpike, Interstate 95

Future Land Use:

The subject property is located within a Limited Growth Area in the Future Land Use Map, which is defined as areas that could accommodate a minimal amount of growth.

Site Description:

The subject property consists of approximately 165,548 square feet (3.8 acres) located along the Eastern right-of-way of Litchfield Road. The property is zoned Residential – Rural (R-RL) and is a legally conforming lot. The property is not located in the Shoreland Overlay Zone, though their neighbors to the West are. The lot contains one conforming single-family dwelling with approximately 2,416 square feet of living area and a barn containing approximately 1,920 square feet of gross area, for a total of 4,336 square feet of residential area.

History of the Property:

The single-family dwelling unit and barn were constructed in approximately 1890 on approximately 16.73 acres. In 2021 the property was subdivided into 8 lots, with the original house and dwelling retaining 3.8 acres. The subdivision plan is attached to the staff report.

Description of the Issue:

The owner/applicant wishes to operate a catering business out of the barn, which would also occasionally include events of no more than 25 people. The proposed business would use the entire area of the barn or roughly 44% of the available area of the two residential structures. There

is room for roughly 20 cars to park in the on-site driveway and parking area.

Applicant's Special Exception Use Request:

Section 16.6.6 requires the Board of Appeals to use the following process when hearing requests:

§ 16.6.6 Basis for decision.

A. Conditions.

- (1) *In hearing appeals/requests under this section, the Board of Appeals must first establish that it has a basis in law to conduct the hearing and decide the question.*

LUDC Section 16.6.4.D.(1) allows the Board of Appeals to “hear, decide, and may grant an applicant's special exception use request where authorized in Chapter 16.3 for any application excluded from Planning Board review as stated in § 16.10.3.2, if the proposed use meets the criteria set forth in § 16.6.6, Basis for decision.” Since this property is not in the Shoreland Overlay or Resource Protection Overlay Zones, the special exception use request falls to the Board of Appeals.

The requested activity is a major home occupation, defined in the code as “a type of home occupation that fails to meet all of the standards for a minor home occupation established in § 16.8.22.2, but is found by the Board of Appeals to satisfy the standards established in § 16.8.22.3 to ensure that a business results in no more than a minor intrusion in the quality of life of residents in the surrounding neighborhood.” Major home occupations as an accessory use are allowed only as a Special Exception Use in the Residential – Rural (R-RL) zone.

- (2) *In hearing appeals/requests under this section, the Board of Appeals must use the following criteria as the basis of a decision, that:*

- (a) *The proposed use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use zones;*

The use can be granted only as an accessory use by the Board of Appeals, and will not prevent the orderly and reasonable use of adjacent properties. All adjacent properties are zoned Residential – Rural containing the same single dwelling use as the subject property and have the same opportunity to apply for home occupations per the code.

- (b) *The use will not prevent the orderly and reasonable use of permitted or legally established uses in the zone wherein the proposed use is to be located or of permitted or legally established uses in adjacent use zones;*

The use will not prevent the orderly and reasonable use of legally established uses in the zone since the use is the same as adjoining properties and there are no use restrictions between adjacent dwelling

units in the zone.

- (c) *The safety, the health and the welfare of the Town will not be adversely affected by the proposed use or its location; and*

The use will not adversely affect the health and welfare of the Town, as long as conditions are met to ensure safe and legal operations.

- (d) *The use will be in harmony with and promote the general purposes and intent of this title.*

The use is in harmony with Title 16 and promotes its general purposes.

Factors for consideration. In making such determination, the Board of Appeals must also give consideration, among other things, to:

- (1) *The character of the existing and probable development of uses in the zone and the peculiar suitability of such zone for the location of any of such uses;*

The use involved is legally permitted in the zone, per review by Board of Appeals.

- (2) *The conservation of property values and the encouragement of the most appropriate uses of land;*

The proposed home occupation will occur in an existing structure, which is an appropriate and compatible use of the land.

- (3) *The effect that the location of the proposed use may have upon the congestion or undue increase of vehicular traffic congestion on public streets or highways;*

There is no proposed change in the underlying use of the property nor increase in density of the existing dwelling unit. Client vehicular traffic should conform to the hours of operation restrictions in the code or imposed by the Board. Off-street parking for the home occupation shall be provided in the driveway.

- (4) *The availability of adequate and proper public or private facilities for the treatment, removal or discharge of sewage, refuse or other effluent (whether liquid, solid, gaseous or otherwise) that may be caused or created by or as a result of the use;*

The property is connected to a private septic system. An upgraded septic system is currently being designed.

- (5) *Whether the use, or materials incidental thereto, or produced thereby, may give off obnoxious gases, odors, smoke or soot;*

The proposed use should not produce any obnoxious gases, odors, smoke or soot.

- (6) *Whether the use will cause disturbing emission of electrical discharges, dust, light, vibration or noise;*

The use should not cause any disturbing emission of electrical discharges, dust, light, vibration or noise.

- (7) *Whether the operations in pursuance of the use will cause undue interference with the orderly enjoyment by the public of parking or of recreational facilities, if existing, or if proposed by the Town or by other competent governmental agency;*

No undue interference should result from this use.

- (8) *The necessity for paved off-street parking;*

The property has suitable existing space for roughly 20 off-street parking spaces.

- (9) *Whether a hazard to life, limb or property because of fire, flood, erosion or panic may be created by reason or as a result of the use, or by the structures to be used, or by the inaccessibility of the property or structures thereon for the convenient entry and operation of fire and other emergency apparatus, or by the undue concentration or assemblage of persons upon such plot;*

No hazards will exist.

- (10) *Whether the use, or the structures to be used, will cause an overcrowding of land or undue concentration of population or unsightly storage of equipment, vehicles or other materials;*

No overcrowding should result from this use.

- (11) *Whether the plot area is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof;*

The existing lot is a legally conforming lot of record.

- (12) *Whether the proposed use will be adequately screened and buffered from contiguous properties;*

The home occupation will be contained within an existing structure and will not need additional screening.

- (13) *The assurance of adequate landscaping, grading and provision for natural*

drainage;

No changes are proposed to the land, which already includes adequate drainage.

(14) Whether the proposed use will provide for adequate pedestrian circulation;

No existing pedestrian facilities are present in this area.

(15) Whether the proposed use anticipates and eliminates potential nuisances created by its location; and

The proposed use should not create any nuisances.

(16) The satisfactory compliance with all applicable performance standard criteria contained in Chapters 16.8 and 16.9.

The applicant must abide by specific conditions outlined in section 16.8.22.3 and any conditions placed on the use by the Board of Appeals.

Using the standards and criteria found in the LUDC, Staff recommends APPROVAL WITH CONDITIONS of the Special Exception Use request for a major home occupation as a catering business on an existing lot located in the R-RL zone, with the following conditions:

- 1. The applicant must be a resident of the dwelling on the premises where the home occupation will occur. An applicant who is not the owner of the property, but is residing on the premises, must submit written permission of the property owner for the proposed home occupation.**
- 2. There must be no more than five adults, inclusive of residents of the premises, working in the home occupation at the site at any one time.**
- 3. No other major home occupations may be conducted on the premises.**
- 4. One (1) sign no greater than eight (8) square feet is allowed for the home occupation.**
- 5. Business activities involving clients or customers on the premises or vehicular traffic to and from the premises must not be conducted between the hours of 7:00 p.m. and 7:00 a.m.**
- 6. All outdoor storage of equipment, vehicles or items associated with the home occupation must be screened from view of abutting properties and from all streets except for one (1) vehicle used in conjunction with the home occupation and vehicles owned by residents of the premises with valid license plates.**

- 7. All refuse and recyclables must be stored in containers that are screened from view of abutting properties and from streets.**

- 8. Upon approval of a major home occupation by the Board of Appeals and compliance with the above conditions, the Code Enforcement Officer is authorized to issue a certificate of occupancy permit for not more than a one-year time period. Such permit may be renewed annually upon application to the Code Enforcement Officer. The annual permit may be renewed only if the Code Enforcement Officer finds the major home occupation complies with all applicable standards of this Code and any conditions required by the Board of Appeals in the original approval.**



150 foot Abutters List Report

Kittery, ME
March 29, 2022

Subject Property:

Parcel Number: 46-6
CAMA Number: 46-6
Property Address: SKYVIEW DRIVE

Mailing Address: CHINBURG DEVELOPMENT LLC
3 PENSTOCK WAY
NEWMARKET, NH 03857

Abutters:

Parcel Number: 46-6A
CAMA Number: 46-6A
Property Address: PICOTT ROAD

Mailing Address: INHABITANTS OF KITTERY PICOTT
ROAD EVELYN HALEY FIELD
200 ROGERS ROAD
KITTEY, ME 03904-1428

Parcel Number: 46-7
CAMA Number: 46-7
Property Address: 22 LITCHFIELD ROAD

Mailing Address: FAITH BAPTIST CHURCH
22 LITCHFIELD ROAD
KITTEY, ME 03904-5518

Parcel Number: 46-7
CAMA Number: 46-7-1
Property Address: 20 LITCHFIELD ROAD

Mailing Address: FAITH BAPTIST CHURCH
22 LITCHFIELD ROAD
KITTEY, ME 03904-5518

Parcel Number: 46-7A
CAMA Number: 46-7A
Property Address: 16 LITCHFIELD ROAD

Mailing Address: KELCOURSE, JUSTIN GOODMAN,
KIMBERLY
16 LITCHFIELD ROAD
KITTEY, ME 03904

Parcel Number: 46-8-1
CAMA Number: 46-8-1
Property Address: 8 LITCHFIELD ROAD

Mailing Address: KUEHL, TR, CHARLES W. THE CHARLES
W. KUEHL REV TR
32 PICOTT ROAD
KITTEY, ME 03904



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TOWN OF KITTERY
Planning & Development Dept
200 Rogers Road
Kittery, ME 03904



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FAITH BAPTIST CHURCH
22 LITCHFIELD ROAD
KITTERY, ME 03904-5518

TOWN OF KITTERY
Planning & Development Dept
200 Rogers Road
Kittery, ME 03904



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KELCOURSE, JUSTIN
GOODMAN, KIMBERLY
16 LITCHFIELD ROAD
KITTERY, ME 03904

TOWN OF KITTERY
Planning & Development Dept
200 Rogers Road
Kittery, ME 03904



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KUEHL, TR, CHARLES W.
THE CHARLES W. KUEHL REV
32 PICOTT ROAD
KITTERY, ME 03904



Town of Kittery Board of Appeals
NOTICE OF PUBLIC HEARING
Tuesday April 12, 2022 — 6:30PM
**Hybrid Meeting: Public may attend in person at 200
Rogers Road, Kittery or virtual link can be found at
<https://www.kitteryme.gov/board-appeals/events/68991>**

Melissa Harrington, tenant, 21 Litchfield Road, requesting a Special Exception
Use per Town Code Section 16.2.12.D(4) to operate a catering and event
hosting business as a Major Home Occupation in the Residential Rural Zone.

Application information is available for public inspection between 8:00 am to 6:00 pm Monday thru
Thursday at the Planning and Development Department located in Town Hall. To request a reasonable
accommodation for this meeting please contact staff at (207) 475-1323.



Kittery, ME

04/05/2022

BOA-22-2

Board of Appeals Application

Status: Active

Date Created: Mar 21, 2022

Applicant

Dean Gallant
deanrgallant@gmail.com
116 Pepperrell Road
PO Box 34
Kittery Point, ME 03905
207-439-1465

Location

8 COLEMAN AVENUE
KITTERY, ME 03905

Owner:

KITTERY ART ASSOCIATION
PO BOX 44 KITTERY POINT, ME 03905-0044

Property Owner Information

Full Legal Name(s)

Kittery Art Association

Mailing Address

PO Box 44

State

ME

Phone Number

207-451-9384

City

Kittery Point

Zip Code

03905

Email Address

info@kitteryartassociation.org

Applicant if different from Property Owner

Full Legal Name (s)

Dean R Gallant

Mailing Address

PO Box 34

State

ME

City

Kittery Point

Zip Code

03905

Phone Number

207-439-1465

Email Address

deanrgallant@gmail.com

Property Information**Street Address**

8 Coleman Avenue

Lot size in acreage

0.13

Tax Map

26

Lot Number

16 (plus adjacent strip)

Base Zone(s)

R-KPV

Overlay Zone(s)

none

Is the Subject Property located within a Shoreland Overlay or Resource Protection Overlay?

No

Is the Subject Property located in a floodplain?

No

Does the Subject Property have any outstanding code violations?

No

Application to Appear before the Board of Appeals

I wish to appear before the Board of Appeals to request:

A Miscellaneous Variation Request**Miscellaneous Variation Request****Nonconformance as prescribed in Chapter 16.1****Miscellaneous Variation Request Pertinent Town Codes****Title**

16

Chapter and Section

3.2.3

Miscellaneous Variation Request Affirmations

I understand that the Board of Appeals:

May hear and decide on a miscellaneous variation request within the limitations set forth in Title 16 with the sections identified above.



Appears to have jurisdiction to hear this request; hearing must be held within 30 days of this request filing; application must be complete; and, public and abutter notice must be made no less than seven days prior to the scheduled hearing.



Will conduct this hearing De Nove (meaning the Board acts if it were considering the question for the first time, affording no deference to the preceding agency decisions; may receive new evidence and testimony consistent with the Town Code Title 16 and the Board rules; and, conduct additional hearings and receive additional evidence and testimony).



Will determine my Burden of Proof: 1. What does the ordinance/statute require the applicant to prove? 2. Does the ordinance/statute prohibit or limit the type of use being proposed? 3. What factors must be considered under ordinance/statutes to decide whether to grant the request? 4. Is the evidence presented substantial? Is it credible? Is it outweighed by conflicting evidence?



Requires substantial evidence as the Standard of Review for this request, meaning: "More than a mere scintilla". It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The preponderance of evidence standard is met if the proposition is more likely to be true than not true. The standard is satisfied if there is greater than fifty percent chance that the proposition is true.



May hear, decide, and approve variations in accordance with the criteria listed in Town Code Title 16, Section 6.6; and may consider other Title 16 standards.



Approval may not be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any state law which the municipality is responsible for enforcing.



Is only legally authorized to deal with issues arising from the list above; and do not include such matters as constitutionality, civil rights, criminal acts, property disputes, surliness, etc.



Will not even hear my appeal unless I can show that I have "standing" to have my complaint heard.



Purpose of establishing by case for "standing" is to limit appeals on an issue to those who are directly involved and/or affected.



Will try to decide my case based only on the factual information presented and what is written in the pertinent Town ordinance/regulation, State statute(s)/regulation(s) and the rulings of the State Supreme Judicial Court.



Tries to make decisions it believes would be upheld if appealed to the Superior Court.



Miscellaneous Variation Request Statement

Describe the general nature of the request:

On behalf of the Kittery Art Association, of which I am President of the Board of Trustees, I am submitting a miscellaneous variation request to allow the property at 8 Coleman Avenue to be offered for sale as a single family residence.

8 Coleman Avenue is in a residential neighborhood in the Kittery Point Village zone. All abutters are single family private residences. The building, a former fire station for the town of Kittery, was sold to the Kittery Art Association for use as an art gallery on January 14, 1959. It has remained such until the present day.

The Art Association must sell its property at 8 Coleman Avenue. We have determined that the highest and best use of this property would be as a single family residence. We have been advised by Kittery's Code Enforcement Office that the building's current use as an art gallery—i.e., not a residence—means that approval by the Board of Appeals is required for the building to be offered for sale as a single family residence. Absent that approval, the only (non-residence) allowable uses would be as noted at §16.3.2.3(B), or, with an exception, as noted at §16.3.2.3(C). However those uses, in turn, have parking requirements as specified in the town Code that the property cannot satisfy. In addition, those uses would not be in character with the other residential properties on Coleman Avenue. To preserve the integrity of the neighborhood and for these reasons we are requesting approval of this miscellaneous variation request.

Certification of Application




Name of Applicant

Dean R Gallant

Date


03/21/2022

Attachments

-  Boundary survey incl 8 Coleman.pdf
Uploaded by Dean Gallant on Mar 20, 2022 at 9:23 am
-  Deed 8 Coleman.pdf
Uploaded by Dean Gallant on Mar 20, 2022 at 11:43 am
- 

8 COLEMAN floor plan.pdf

Uploaded by Dean Gallant on Mar 20, 2022 at 9:37 am

 8 Coleman quitclaim deed Seaward to KAA 2000.pdf

Uploaded by Dean Gallant on Mar 20, 2022 at 11:24 am

Know all Men by these Presents, That

I, Robert Dodge of Kittery in the County of York and State of Maine
in consideration of one dollar and other good and valuable considerations paid by
Kittery Art Association a corporation organized and existing under the laws of the
State of Maine and located in Kittery in the County of York and State of Maine
the receipt whereof I do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said
Kittery Art Association, its successors and assigns forever, a certain lot or
parcel of land with the buildings thereon, situate in said Kittery and being a
part of Lot No. 1 on Railroad Avenue at Kittery Point as laid out by A. Dennett on
Plan of Land of Daniel O. Seaward and filed in York County Registry of Deeds and
bounded and described as follows;

Book 1381

I.R.S.
Three
Dollars
and
Twenty
Cents

Beginning at the Northwesterly end of a private way on Railroad Avenue and
running North 2° West 30 feet by Railroad Avenue; thence North by land of Webster
80½° East seventy-five (75) feet; thence South 2° East 30 feet; thence South 79½°
West seventy-five (75) feet by said Private Way to the point of beginning.

Being the same premises conveyed to me by Philip W. Walker and Barbara F.
Walker by their warranty deed dated February 18, 1957 and recorded in York County
Registry of Deeds, Book 1341, Page 544.

Do give and in full, the aforegranted and bargained premises with all the privileges and
appurtenances thereof to the said Kittery Art Association, its successors

heirs and assigns, to it and their use and behoof forever. And I do covenant with the
said Grantee, its successors

heirs and assigns, that I am lawfully seized in fee of the premises, that they are free of all incumbrances;

that I have good right to sell and convey the same to the said Grantee
to hold as aforesaid; and that I and my heirs, shall and will warrant and defend the
same to the said Grantee, its successors

heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, I the said Robert Dodge, being unmarried and relinquishing and
conveying my right by descent and all other rights in the above described premises,

my hand and seal this fourteenth day of January in the year of our Lord
one thousand nine hundred and fifty-nine

Signed, Sealed and Delivered
in presence of

Francis F. Neal

Robert Dodge (seal)

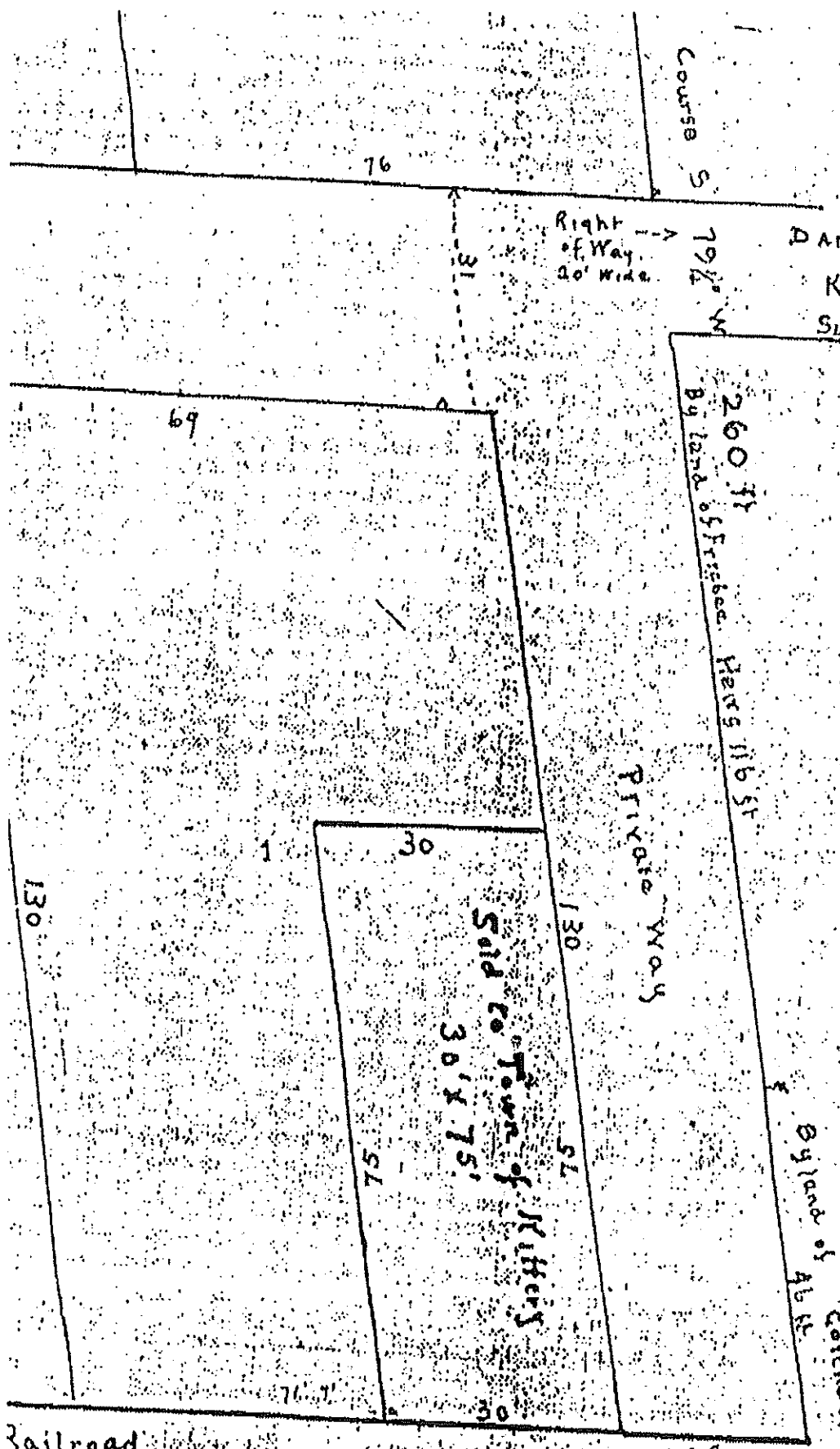
State of Maine, York ss. January 14, 1959
the above named Robert Dodge

Personally appeared

and acknowledged the above instrument to be his free act and deed.

Before me, Francis F. Neal Justice of the Peace

Recorded according to the original received. January 15, 1959 at 9h. 30m. A.M.



PLAT
 PROPERTY OF
 DANIEL O. SEAWARDS
 Kittery Point, Me.
 Surveyed Dec. 1904.
 by A. Dennett
 Scale 20ft to 1 in

RECEIVED YORK S.S.
 2000 OCT 24 P. 12:45

ATTEST: *John M. Moore*

John A. Adams

Alterations as per red lines and figures

Railroad

d

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Planning & Development Dept
200 Rogers Road
Kittery, ME 03904

GRAF. DAVID W
PO BOX 73
KITTEY POINT, ME 03905-0073

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Planning & Development Dept
200 Rogers Road
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REID TR, SAMUEL SEABURY
REID TR, JULIET W
JWR & SSR QUAL PERS RES TR
PO BOX 181
KITTEY POINT, ME 03905-0161

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Neila Arnold
PO Box 31
Kittery Point, ME
03905

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Alan Abramson
444 Henry St.
Brooklyn, NY
11231

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Planning & Development Dept
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Kittery, ME 03904

EDWARD S BREWER REV TRUST
SARAH S BREWER REV TRUST
67 PEPPERELL ROAD
KITTEY POINT, ME 03905

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Planning & Development Dept
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Richard Barrie
PO Box 212
Kittery Point, ME
03905

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Planning & Development Dept
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Christopher Miller
PO Box 295
Kittery Point, ME
03905

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Planning & Development Dept
200 Rogers Road
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Edward Brewer Tr.
PO Box 248
Kittery Point, ME
03905

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TOWN OF KITTERY
Planning & Development Dept
200 Rogers Road
Kittery, ME 03904

Ruth Antolino
1846 Douglas Ave.
Dunedin, FL
34698


Town of Kittery Board of Appeals
NOTICE OF PUBLIC HEARING
Tuesday April 12, 2022 — 6:30PM
Hybrid Meeting: Public may attend in person at 200 Rogers Road, Kittery or virtual link can be found at <https://www.kitteryme.gov/board-appeals/events/68991>

Dean Gallant, on behalf of the Kittery Art Association, 8 Coleman Ave,
requesting a Miscellaneous Variation per Town Code Section 16.2.12.D(3) to
convert an existing art gallery to residential use.

Application information is available for public inspection between 8:00 am to 6:00 pm Monday thru
Thursday at the Planning and Development Department located in Town Hall. To request a reasonable
accommodation for this meeting please contact staff at (207) 475-1323.



150 foot Abutters List Report

Kittery, ME
March 29, 2022

Subject Property:

Parcel Number: 26-16
CAMA Number: 26-16
Property Address: 8 COLEMAN AVENUE

Mailing Address: KITTERY ART ASSOCIATION C/O MIKE
GATELY
PO BOX 44
KITTERY POINT, ME 03905-0044

Abutters:

Parcel Number: 26-11
CAMA Number: 26-11
Property Address: 16 COLEMAN AVENUE

Mailing Address: ARNOLD, NEILA J
PO BOX 31
KITTERY POINT, ME 03905-0031

Parcel Number: 26-12
CAMA Number: 26-12
Property Address: 12 COLEMAN AVENUE

Mailing Address: ANTOLINO, RUTH
1845 DOUGLAS AVENUE
DUNEDIN, FL 34698

Parcel Number: 26-15
CAMA Number: 26-15
Property Address: 10 COLEMAN AVENUE

Mailing Address: GRAF, DAVID W
PO BOX 73
KITTERY POINT, ME 03905-0073

Parcel Number: 26-17
CAMA Number: 26-17
Property Address: 6 COLEMAN AVENUE

Mailing Address: INHABITANTS OF KITTERY 6 COLEMAN
AVENUE VACANT LOT
200 ROGERS ROAD
KITTERY, ME 03904-1428

Parcel Number: 26-18
CAMA Number: 26-18
Property Address: 71 PEPPERRELL ROAD

Mailing Address: BARRIE, RICHARD B
PO BOX 212
KITTERY POINT, ME 03905-0212

Parcel Number: 26-19
CAMA Number: 26-19
Property Address: 73 PEPPERRELL ROAD

Mailing Address: REID TR, SAMUEL SEABURY REID TR,
JULIET W
JWR & SSR QUAL PERS RES TR PO BOX
161
KITTERY POINT, ME 03905-0161

Parcel Number: 26-21
CAMA Number: 26-21
Property Address: 75 PEPPERRELL ROAD

Mailing Address: REID TR, SAMUEL SEABURY REID TR,
JULIET W
JWR & SSR QUAL PERS RES TR PO BOX
161
KITTERY POINT, ME 03905-0161

Parcel Number: 26-4
CAMA Number: 26-4
Property Address: 67 PEPPERRELL ROAD

Mailing Address: EDWARD S BREWER REV TRUST
SARAH S BREWER REV TRUST
67 PEPPERRELL ROAD
KITTERY POINT, ME 03905

Parcel Number: 26-5
CAMA Number: 26-5
Property Address: 1 COLEMAN AVENUE

Mailing Address: MILLER, CHRISTOPHER GEORGE
MILLER, KIMBERLEY DIANNE
PO BOX 295
KITTERY POINT, ME 03905



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3/29/2022

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Page 1 of 2



150 foot Abutters List Report

Kittery, ME
March 29, 2022

Parcel Number: 26-5A
CAMA Number: 26-5A
Property Address: 5 COLEMAN AVENUE

Mailing Address: BREWER TR, EDWARD S BREWER TR,
SARAH S
PO BOX 248
KITTERY POINT, ME 03905

Parcel Number: 26-6
CAMA Number: 26-6
Property Address: 15 COLEMAN AVENUE

Mailing Address: ABRAMSON, ALAN SWARTZ, CYNTHIA
444 HENRY STREET
BROOKLYN, NY 11231



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Page 2 of 2

MEETING MINUTES

1. CALL TO ORDER; INTRODUCTORY; ROLL CALL

Chair Timko called the meeting to order at 6:30 p.m.

Board Members Present: Amelia Burke, Bob Gray, Roland Scott, Douglas Basnett, Rick Nohmer, April Timko

Board Members Absent: Charles Denault III

Staff Present: Craig Alfis, Code Enforcement Officer

2. PLEDGE OF ALLEGIANCE

3. AGENDA AMENDMENT AND ADOPTION

4. EXECUTIVE SESSION

5. PUBLIC HEARINGS

6. UNFINISHED BUSINESS

7. NEW BUSINESS

- Mr. Stephen Langsdorf gave a training on appeals, requests, procedures, and processes for the Board.
 - The full training can be found at https://townhallstreams.com/stream.php?location_id=68&id=41154

8. ACCEPTANCE OF PREVIOUS MINUTES

- January 25, 2022 & February 22, 2022

Motion by Mr. Nohmer to accept the meeting minutes. Second by Ms. Burke. Motion passed 6-0-0 by roll call vote [Yes: Burke, Gray, Scott, Basnett, Nohmer, Timko; No: --; Abstain: --]

9. BOARD MEMBER OR CEO ISSUES OR COMMENT

- Chair Timko relayed that she would like to begin meeting in person again if possible. Mr. Alfis relayed to the Board that the Towns remote meeting policy will require Boards to begin meeting in person again. The decision to hold the next meeting as a hybrid meeting to allow remote public participation was agreed upon by the Board.

10. ADJOURNMENT

Motion by Chair Timko to adjourn. Second by Mr. Gray. Motion passed 6-0-0 by voice vote [Yes: Burke, Gray, Nohmer, Timko; No: --; Abstain: --]

The Kittery Board of Appeals meeting of March 22, 2022 adjourned at 8:07 p.m.

Submitted by Craig Alfis, Code Enforcement Officer

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