

Counter



**Town of Kittery**  
**200 Rogers Road, Kittery, ME 03904**  
**Board of Appeals Meeting Agenda**  
**Virtual Meeting**  
**Tuesday, May 25, 2021**  
**Regular Meeting – 6:30 P.M.**

The public may submit public comments for PUBLIC HEARING agenda items via email, US Mail, or by dropping written comments in the drop box outside the Town Hall entrance. Emailed comments should be sent to [ceo@kitteryme.org](mailto:ceo@kitteryme.org).

The public may also participate in the meeting via Zoom webinar. Register in advance for the webinar at [https://us02web.zoom.us/webinar/register/WN\\_DYw\\_SaSNQZywyDU22pmDgw](https://us02web.zoom.us/webinar/register/WN_DYw_SaSNQZywyDU22pmDgw).

After registering, you will receive a confirmation email containing information about joining the webinar. Webinar participants will be able to submit questions and comments during a public hearing.

Comments received by noon on the day of the meeting will become part of the public record and may be read in whole or in summary by the Board Chair.

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- 1. Call to Order; Introductory; Roll Call**
- 2. Pledge of Allegiance**
- 3. Agenda Amendment and Adoption**
- 4. Executive session (if required)**
- 5. Public Hearings**
  - Anne Whitney on behalf of Marc Halle, owner 6 Thaxter Lane, requesting a Miscellaneous Variation to expand a non-conforming structure in the Residential – Rural Conservation zone per Code Section 16.7.3.3.B(1) & 16.6.4.C(1)
- 6. Unfinished Business**
- 7. New Business**
- 8. Acceptance of Previous Minutes**
  - April 13, 2021
- 9. Board Member or CEO Issues or Comment**
- 10. Adjournment**

**Board of Appeals Application**

**BOA-21-2**

Submitted On: Apr 29, 2021

**Applicant**

 Anne Whitney  
 603-427-2832  
 archwhit@aol.com

**Location**

6 THAXTER LANE  
KITTERY, ME 03905

**Property Owner Information**

**Full Legal Name(s)**

Marc T. Halle

**Mailing Address**

260 Pearl St

**State**

MA

**Phone Number**

617-817-5998

**City**

Cambridge

**Zip Code**

02139

**Email Address**

tim.halle@gmail.com

**Applicant if different from Property Owner**

**Full Legal Name (s)**

Anne Whitney Architect

**Mailing Address**

9 Sheafe St

**State**

NH

**Phone Number**

603-427-2832

**City**

Portsmouth

**Zip Code**

03801

**Email Address**

archwhit@aol.com

**Property Information**

**Street Address**

6 Thaxter Lane

**Tax Map**

64

**Base Zone(s)**

R-RC

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

No

**Lot size in acreage**

0.93

**Lot Number**

24B

**Overlay Zone(s)**

0

**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?

--

**Application to Appear before the Board of Appeals**

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

A Variance Request

--

A Special Exception Use Request

--

An Administrative Appeal

--

A Miscellaneous Variation Request

true

**Miscellaneous Variation Request**

Nonconformance as prescribed in Chapter 16.7, Article III

true

Parking, loading and traffic standards contained in Chapter 16.8, Article IX

--

Sign violation and appeal standards contained in 16.8.10.3

--

Accessory dwelling unit standards contained in Chapter 16.8, Article XXV

--

New Field

--

**Miscellaneous Variation Request Pertinent Town Codes**

Title

16

Chapter and Section

7.3.3B(2)

Title

--

Chapter and Section

--

Title

--

Chapter and Section

--

**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.

true

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.

true

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?

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.

true

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.

true

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.

true

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).

true

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.

true

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.

true

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

true

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

true

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

true

**Miscellaneous Variation Request Statement**

Describe the general nature of the request:

Relief from < 1 Acre Wetland Setback. Three small Addtions Labelled A,B & C. A & B will add space to the Existing Kitchen & Mudroom. A has a setback to the wetland of 28ft.. C is an expansion of the Existing Screen Porch & has a setback to the wetland of 29.7ft..

**Certification of Application**

**Applicant's Signature**

true

**Name of Applicant**

Anne Whitney

**Date**

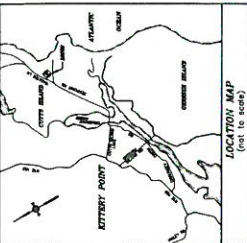
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**ZONING DATA: Residential-Rural Conservation (R-RC)**  
 (See Code, Chapter 12, Section 12.02(1))

- REQUIREMENTS:**
- MINIMUM LOT AREA: 80,000 Sq Ft
  - MINIMUM LOT SIZE: 80,000 Sq Ft
  - MINIMUM FRONT YARD: 40 Ft
  - MINIMUM BUILDING COVERAGE: 10%
  - MINIMUM BUILDING HEIGHT: 35 Ft
- WETLAND SETBACKS:**
- WATER: 50 Ft
  - WETLAND: 100 Ft
  - GRAVEL: 100 Ft
  - WATER: 50 Ft
  - WETLAND: 100 Ft
  - GRAVEL: 100 Ft

**BUILDING COVERAGE CALCULATION:**

LOT AREA	EXISTING	PROPOSED
40,644 SQ. FT.	1,464 SQ. FT.	1,464 SQ. FT.
	3.6%	3.6%
	1.7%	1.7%
	2994 SQ. FT.	2994 SQ. FT.
	7.4%	7.4%
	1,783 SQ. FT. (4.3%)	1,783 SQ. FT. (4.3%)



**PLAN REFERENCES:**

- "STANDARD BOUNDARY SURVEY FOR PROPERTY AT 6 THAXTER LANE, KITTERY POINT, YORK COUNTY, MAINE OWNED BY ROSAMOND T. HALL, C/O TM HALL & THAXTER LANE, KITTERY POINT, MAINE 03909", PREPARED BY NORTH EASTERLY SURVEYING, INC. LAST DATED OCTOBER 26, 2009, AND RECORDED AT THE Y.C.B.O. AS PLAN BOOK 340 PAGE 14.
- "STANDARD BOUNDARY SURVEY FOR PROPERTY AT 6 THAXTER LANE, KITTERY POINT, YORK COUNTY, MAINE OWNED BY ROSAMOND T. HALL, C/O TM HALL & THAXTER LANE, KITTERY POINT, MAINE 03909", PREPARED BY NORTH EASTERLY SURVEYING, INC. LAST DATED OCTOBER 26, 2009, AND RECORDED AT THE Y.C.B.O. AS PLAN BOOK 340 PAGE 14.
- "STANDARD BOUNDARY SURVEY FOR PROPERTY AT 47 SEAPORT ROAD, KITTERY POINT, YORK COUNTY, MAINE OWNED BY MOLLY SAMSON", PREPARED BY NORTH EASTERLY SURVEYING, INC., DATED NOVEMBER 7, 2009, AND ON FILE AS PROJECT NO. 10721.
- "TESTING CONDITIONS PLAN FOR PROPERTY AT 6 THAXTER LANE, KITTERY, YORK COUNTY, MAINE OWNED BY ROSAMOND T. HALL, C/O TM HALL & THAXTER LANE, KITTERY, YORK COUNTY, MAINE 03909", PREPARED BY NORTH EASTERLY SURVEYING, INC., DATED MARCH 18, 2021 AND ON FILE AS PROJECT NO. 09852.

**NOTES:**

- OWNERS OF RECORD: 1970-1971 LOT 248, 1972-1973 LOT 248, 1974-1975 LOT 248, 1976-1977 LOT 248, 1978-1979 LOT 248, 1980-1981 LOT 248, 1982-1983 LOT 248, 1984-1985 LOT 248, 1986-1987 LOT 248, 1988-1989 LOT 248, 1990-1991 LOT 248, 1992-1993 LOT 248, 1994-1995 LOT 248, 1996-1997 LOT 248, 1998-1999 LOT 248, 2000-2001 LOT 248, 2002-2003 LOT 248, 2004-2005 LOT 248, 2006-2007 LOT 248, 2008-2009 LOT 248, 2010-2011 LOT 248, 2012-2013 LOT 248, 2014-2015 LOT 248, 2016-2017 LOT 248, 2018-2019 LOT 248, 2020-2021 LOT 248.
- TOTAL TAX MAP 64 LOT 248: 0.83 Acres
- BASE OF BEARING IS PER PLAN REFERENCE #1.
- APPROXIMATE ABUTTER'S LINES SHOWN HEREON ARE FOR REFERENCE PURPOSES ONLY AND SHALL NOT BE RELED UPON AS BOUNDARY INFORMATION.
- EASEMENTS OR OTHER UNWRITTEN RIGHTS MAY EXIST THAT ENCUMBER OR BENEFIT THE PROPERTY NOT SHOWN HEREON.
- ZONING INFORMATION AND SETBACKS SHOWN HEREON ARE FOR REFERENCE PURPOSES ONLY AND SHALL NOT BE RELED UPON AS BOUNDARY INFORMATION.
- ZONING INFORMATION AND SETBACKS SHOWN HEREON ARE FOR REFERENCE PURPOSES ONLY AND SHALL NOT BE RELED UPON AS BOUNDARY INFORMATION.
- REFERENCE IS MADE TO DEPARTMENT OF ENVIRONMENTAL PROTECTION BUREAU OF LAND RESOURCES FIELD DETERMINATION FORM DATED MARCH 12, 2019.
- REFERENCE IS MADE TO DESIGN PLANS BY ANNE WHITNEY TO BE PROVIDED BY APPLICANT FOR DIMENSIONS, ELEVATIONS AND SPECIFICATIONS.

**WETLAND NOTE:**

THE WETLAND BOUNDARY AS DEPICTED ON THIS PLAN WAS DELINEATED/FLAGGED BY JOSEPH W. NOEL, MAINE LICENSED SOIL SCIENTIST #609. THE FLAGS WERE LOCATED BY NORTH EASTERLY SURVEYING, INC. ON JANUARY 28, 2021. THE WETLAND BOUNDARY WAS DELINEATED/FLAGGED BY THE U.S. ARMY CORPS OF ENGINEERS DOCUMENT CORPS OF ENGINEERS WETLAND DELINEATION MANUAL (1987) ALONG WITH THE REQUIRED "REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL" (VERSION 2, JANUARY 2012). 6 THAXTER LANE WAS REFLAGGED/UPDATED ON JANUARY 28, 2021.



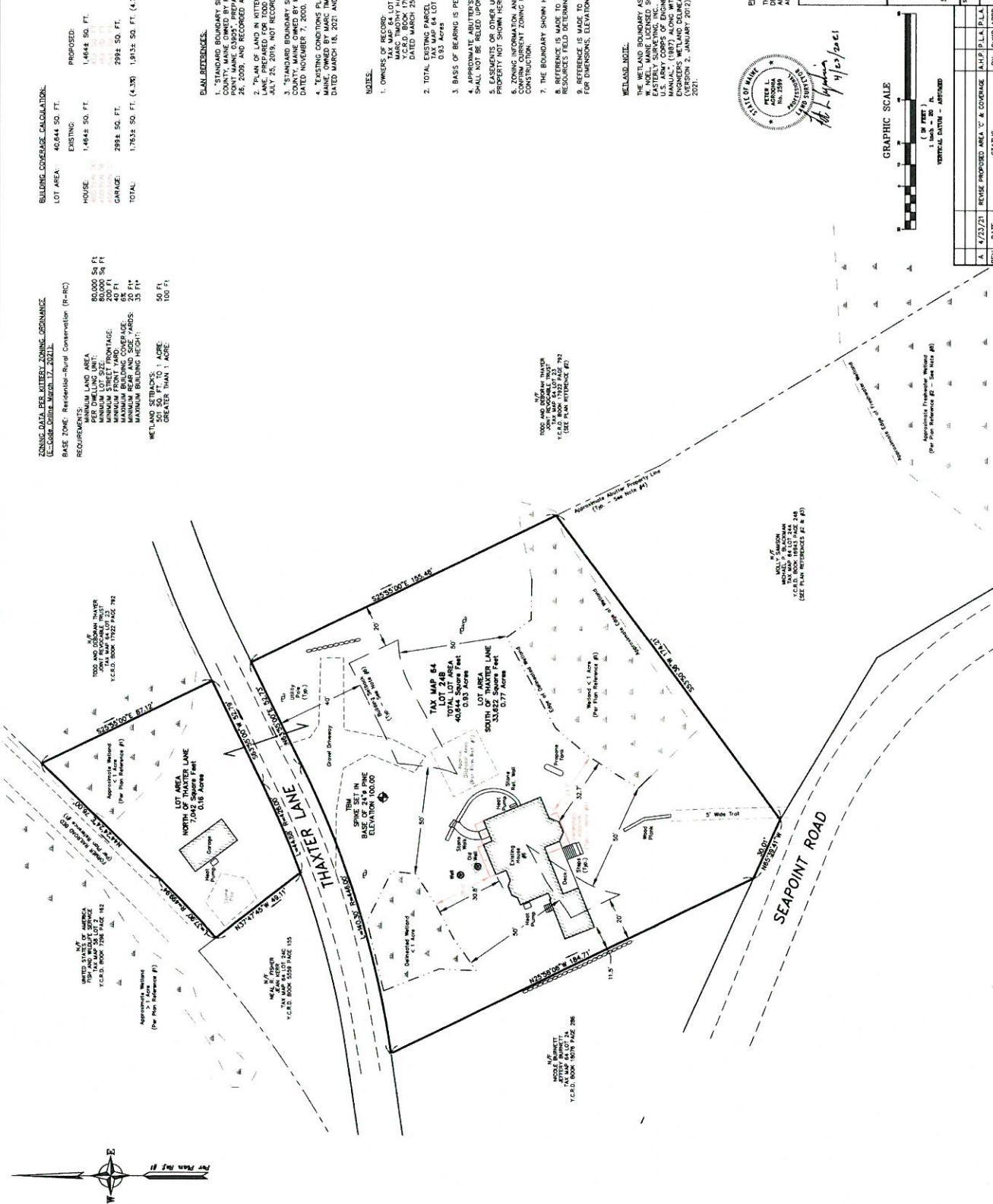
**PROPOSED SITE PLAN**

FOR PROPERTY AT  
 6 Thaxter Lane  
 Kittery Point, York County, Maine  
 Owned by  
 Marc Timothy Halle  
 201 Seapoint Road  
 Kittery, Maine 03904  
 Cambridge, MA 02139



SCALE	PROJECT NO.	DATE	SHEET	OF 1	DATE	BY	CHKD	APPRD
1" = 20'	0985	4/23/21	1	1	4/23/21	T.M.H.		

REV	DATE	REVISION	AREA	COVERAGE	A.H.P.	P.L.A.	P.L.A.
A	4/23/21	REVISE PROPOSED AREA & COVERAGE					



**6 Thaxter Lane  
Map 64 Lot 248**

**Miscellaneous Variance Request from 16.7.3.3B(2).**

**To permit the following:**

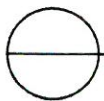
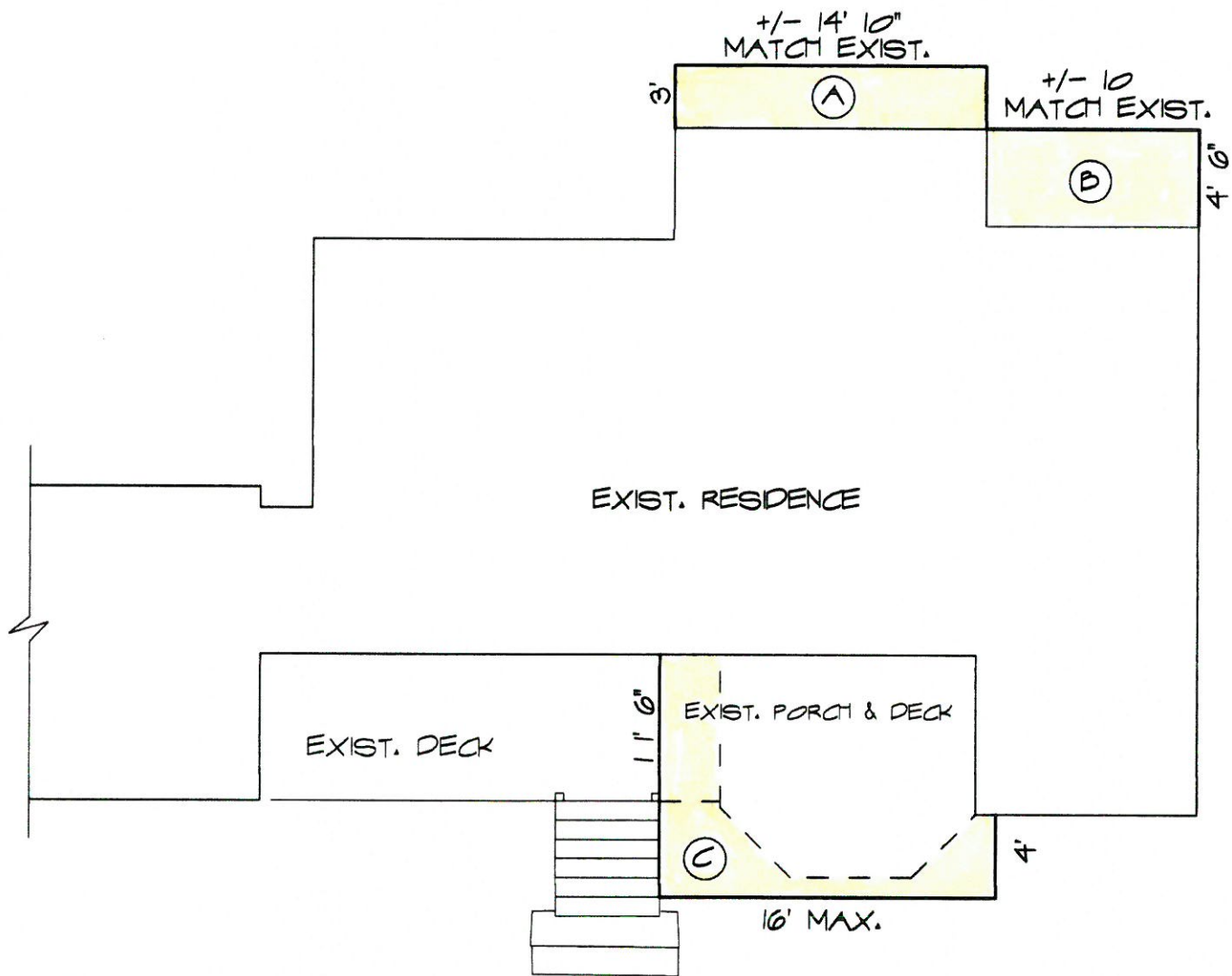
1. A 28.0' Setback from, < 1 Acre Wetland, where 30.8' is Existing.
2. A 29.7' Setback from, <1 Acre Wetland, where 32.7 is Existing

**The undersigned agrees that the following circumstances exist.....**

1. The proposed Additions at the North Side of the Existing Residence will; 1, add 3' to the existing Kitchen (45sf) and 2, 4.5' to the existing Mudroom (46sf). These small 1-Story Additions will added much needed space to the Residence.
2. The proposed Rebuilding & Expansion of the South Side Screen Porch (+59sf)will partly overlap the existing Deck and at most extend just 3' closer to the wetland.

**Criteria for the Variance:**

1. The Variances are not contrary to the public interest in that it will not affect adjacent properties. The Additions conform to the R-RC Zone Setbacks and just need relief from the Wetland Setbacks. Any changes to this non-conforming structure would need Variances.
2. The Variances are consistent with the spirit of the ordinance in that it will allow improvements to the function of the Residence with minimal impact.
3. Substantial justice will be done, as this work will allow the owner to improve the the Property without adversely affecting the Wetlands.
4. The special condition of this property is that the Existing Residence is non-conforming as to both < 1 Acre Wetlands on the property.



**FOOTPRINT CHANGES**

SCALE: 1/8" = 1'-0"

- (A) - ADDITION TO KITCHEN  
3' X 14' 10" = 43 SF
- (B) - ADDITION TO EXPAND MUDROOM  
4' 6" X 10' = 46 SF
- (C) - REBULD & EXPAND REAR PORCH  
NEW PORCH LESS EXIST. = 59 SF

TOTAL ADDED FOOTPRINT = 150 SF

**ADDITIONS & RENOVATIONS, HALLER RESIDENCE**

6 THAXTER LANE

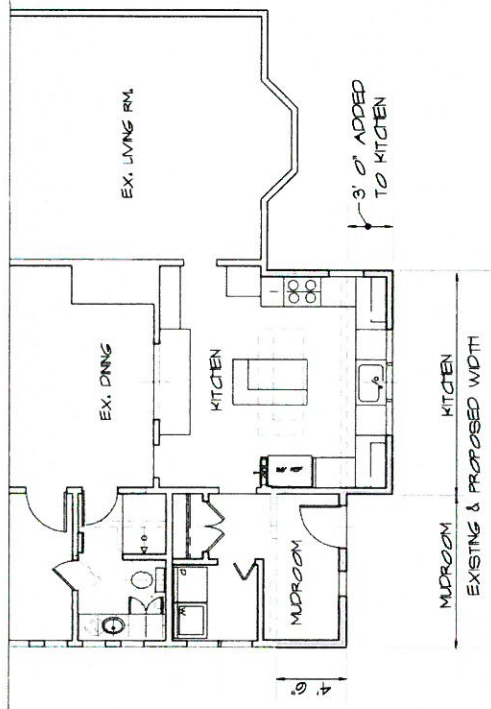
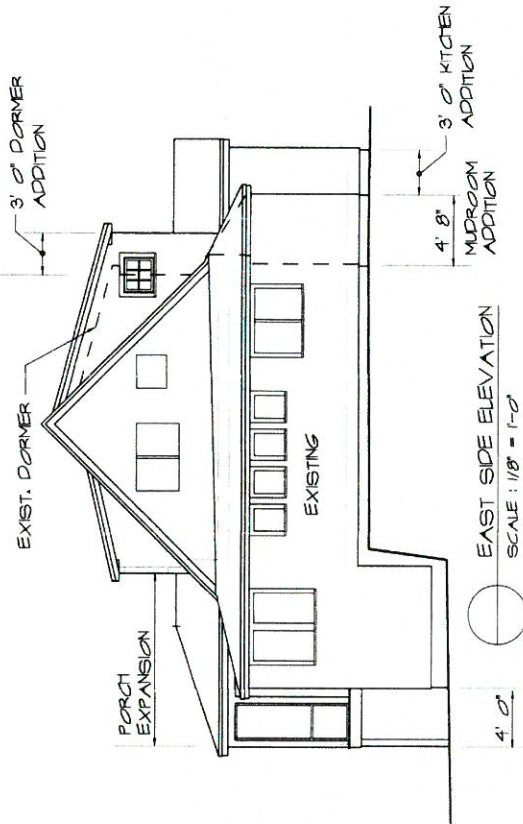
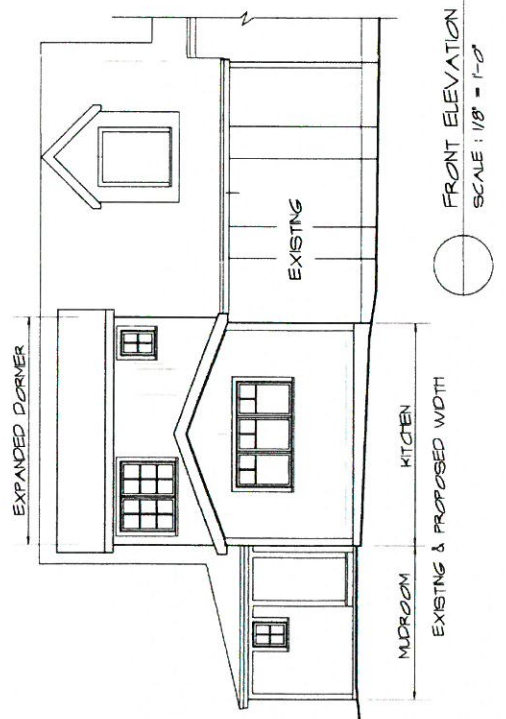
KITTERY POINT, MAINE

9 Sheafe Street  
Portsmouth  
NH 03801  
603-427-2832



**ANNE WHITNEY ARCHITECT**

Project:	Date:	
01907	4/23/21	1 OF 3



**SCHEMATIC DESIGN**

ANNE WHITNEY ARCHITECT  
ADDITIONS & RENOVATIONS, THALLE RESIDENCE  
6 THAXTER LANE  
KITTERY POINT, MAINE

Project: 1907  
Date: 4/29/21  
Page: 2 of 3

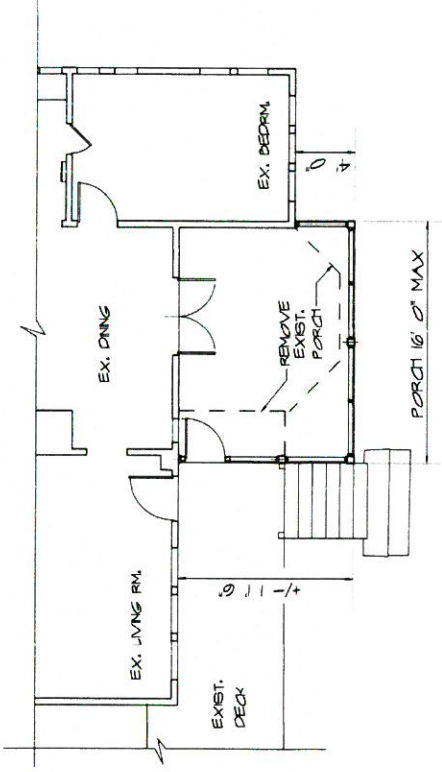




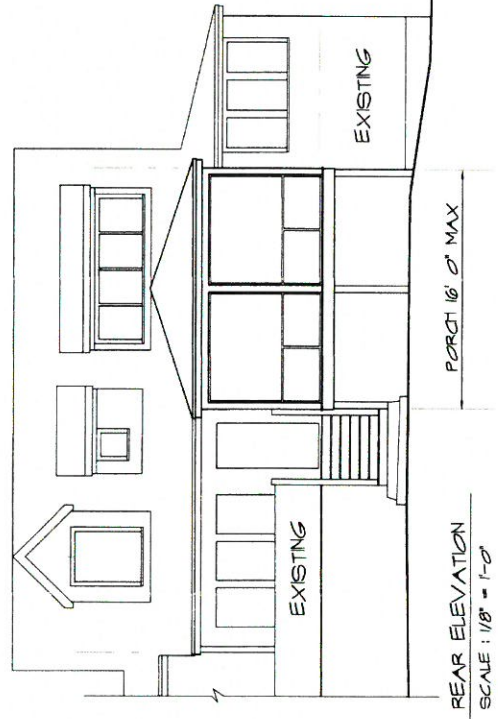
VIEW OF EAST SIDE ELEVATION



REAR DECK & PORCH VIEWS



PORCH EXPANSION PLAN  
SCALE: 1/8" = 1'-0"



REAR ELEVATION  
SCALE: 1/8" = 1'-0"

**Schematic Design**

ANNE WHITNEY ARCHITECT  
 ADDITIONS & RENOVATIONS, HALLE RESIDENCE  
 6 THAXTER LANE  
 KITTERY POINT, MAINE

Project #1907  
 Date: 4/23/21  
 Revisions: 3 of 3



PLANNING & DEVELOPMENT DEPARTMENT  
STAFF REPORT

BOA Meeting Date: May 25, 2021

Item #: MVR2021-01

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STAFF REPORT – 6 THAXTER LANE – MISCELLANEOUS VARIATION REQUEST

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**Project Name:** 6 Thaxter Lane

**Applicant:** Anne Whitney

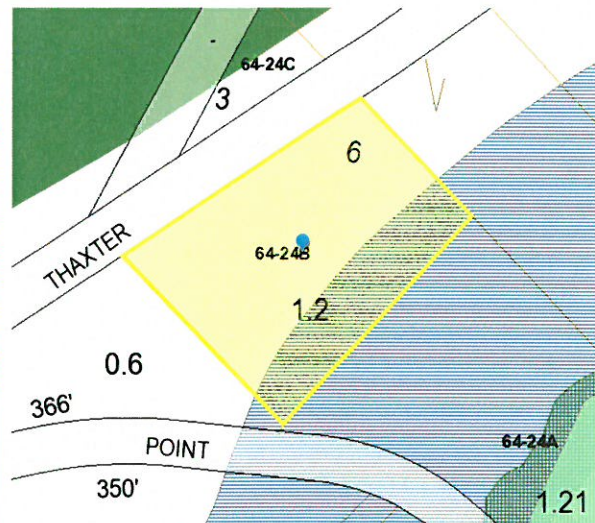
**Owner:** Marc Halle

**Proposed Development:** Additions to a non-conforming structure

**Requests:** Miscellaneous Variation Request to expand a non-conforming structure at 6 Thaxter Lane in the Residential – Rural Conservation (R-RC) zone per Section 16.6.4.C(1) and 16.7.3.3.B(1) of the Town Code.

**Site Addresses:** 6 Thaxter Lane

**Map & Lot Numbers:** M 64 L 24B



**Current Zoning:**

Residential – Rural Conservation (R-RC). The purpose of the Residential – Rural Conservation R-RC zone is to conserve and protect land areas of the Town which by their location and character require special measures to ensure low-density development.

The following uses are permitted in the Residential – Rural Conservation (R-RC) Zone: (1) Dwellings or modular homes, exclusive of mobile homes. The proposed use is permitted by right.

**Staff Recommendation:** *DENIAL* of miscellaneous variation request.

**District Standards:**

Residential Rural (R-RL) Zoning District Standards			
Minimum Street Frontage	200 feet	Front Yard Setback (min.)	40 feet
Lot Size (min.)	80,000 sf	Rear Yard Setback (min.)	20 feet
Side Yard Setback (min.)	20 feet	Maximum Building Coverage	6%

**Current Use:** Single Family Dwelling Unit

**Surrounding Land Uses:**

North: Residential Rural Conservation (R-RC). Residential

South: Residential Rural Conservation (R-RC), Shoreland Overlay Zone (OZ-SL-250). Residential

East: Residential Rural Conservation (R-RC), Shoreland Overlay Zone (OZ-SL-250). Residential

West: Conservation (CON), Shoreland Overlay Zone (OZ-SL-75). Conservation Land

**Future Land Use:**

The subject property is located within the “Limited Growth” area on 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 a 47,686 square foot lot (1.1 acres), bisected by Thaxter Lane. The property is a non-conforming lot of record containing a single-family dwelling unit. The existing building is non-conforming as it encroaches on multiple wetland setbacks and the western side yard setback.

**Description of the Issue:**

The applicant is proposing three small additions (A, B & C) totaling roughly 150 square feet (See attached survey, A=45SF, B=46SF & C=59SF). The current house sits between two wetlands, each of which are under one acre but greater than 501 square feet in size. Wetland Setback Table 16.9 requires a 50 foot setback for buildings or structures. The current building is 30.8 feet from the wetland to the North and 32.7 feet from the wetland to the Southeast. While addition B will not result in setbacks less than those existing, Additions A & C will. Addition A will reduce the distance to the Northern wetland by 2.8 feet to 28.0 feet and Addition C will reduce the distance to the Southeastern wetland by 3 feet to 29.7 feet.

**Applicant’s Miscellaneous Variation 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.C.(1) allows the Board of Appeals to decide variations for nonconformities covered in Section 16.7.3. Further, Section 16.7.3.3.B(1) states, “except where otherwise permitted in this title, repair and/or expansion of a nonconforming structure must be approved by the Board of Appeals.”**

(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;*

**Staff does not believe the use will prevent the orderly and reasonable use of adjacent properties since the use is not changing.**

(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;*

**Staff does not believe the use will prevent the orderly and reasonable use of legally established uses in the zone since the use is not changing.**

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

**Staff does not believe the use will adversely affect the health and welfare of the Town.**

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

**Staff believes the use is in harmony with Title 16 but that the project is not as it will increase dimensional non-conformity.**

*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 proposed use involved is allowed in the zone by right.**

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

**Staff believes that the proposed addition will not negatively affect property values.**

- (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 increase in density that would result in additional vehicular traffic.**

- (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 an adequate private subsurface wastewater disposal system.**

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

**The proposed use produces no obnoxious gases, odors, smoke or soot.**

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

**The proposed use causes no 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 addition will not result in any increased parking requirements.**

- (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 should result from this use.**

- (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 legal non-conforming lot of record, but does not contain enough buildable area to allow for a conforming expansion.**

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

**Staff believes there is adequate existing screening.**

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

**Staff believes that the proposed addition will not negatively affect drainage.**

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

**No sidewalks are required for residential properties.**

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

**No new nuisances are expected from the continuation of the dwelling use.**

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

**The proposed expansion violates two wetland setbacks. All other aspects of the proposed use and site plan appear to conform to Title 16.8 and 16.9.**

Using the standards and criteria found in 16.6.6 of the LUDC, Staff recommends **DENIAL** of the miscellaneous variation request to reduce the dimensional standards for the wetlands as proposed.

## **Findings of Fact & Conclusions of Law**

The below sample findings of fact and conclusions of law are offered by Staff for consideration by the Board. They reflect only the facts of request and have been written to be applicable for either outcome of the Board's decision. As such, the Board may decide to consider additional findings and conclusions to document their decision.

### **Sample Findings of Fact:**

1. The applicant Anne Whitney requested a Miscellaneous Variation per Code Section 16.7.3.3.B(1) and 16.6.4.C(1) for the expansion of a nonconforming structure.
2. The property is located in the Residential – Rural Conservation zone.
3. The property is a nonconforming lot of record.
4. The existing house is non-conforming due to its proximity to two wetlands and the Western side setback.
5. The applicant proposes to add three additions which will add 150 square feet of floor area.
6. The setback to the Northern wetland would be reduced from 30.8 feet to 28.0 feet.
7. The setback to the Southeastern wetland would be reduced from 32.7 feet to 29.7 feet.

### **Sample Conclusions of Law:**

1. The Board found it had the authority to hear this Miscellaneous Variation Request pursuant to Code Section 16.6.4.C(1) and 16.7.3.3.B(1).
2. The Board considered the Basis of Decision and Factors for Consideration set forth in 16.6.6.

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



UNITED STATES OF AMERICA  
300 WESTGATE CENTER DRIVE  
HADLEY, MA 01035

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



THAYER, TODD S  
THAYER, DEBORAH L  
195 MCGREGOR STREET  
MANCHESTER, NH 03102

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



TEN THAXTER LANE LLC  
C/O NATHANIEL E HUBBARD  
1300 N ARDMORE AVENUE  
MANHATTAN BEACH, CA 90266

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



POP HELD INC  
C/O NANCY HERWIG  
15709 NELSON LANE  
HAYMARKET, VA 20169



**Town of Kittery Board of Appeals  
NOTICE OF PUBLIC HEARING**  
Tuesday, May 25, 2021 — 6:30PM  
Virtual Meeting: Link can be found at  
<https://www.kitteryme.gov/board-appeals/events/44084>

Anne Whitney on behalf of Marc Halle, owner 6 Thaxter Lane,  
requesting a Miscellaneous Variation to expand a non-conforming  
structure in the Residential - Rural Conservation zone per Code Section  
16.7.3.3 B(2).

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.

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



HELD SEAPPOINT TRUST  
10916 JUSTIN KNOLL ROAD  
OAKTON, VA 22124

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



HELD ETAL, HERBERT J  
8211 GREENTREE MANOR LANE  
FAIRFAX STATION, VA 22039

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



FISHER, NEAL R  
KERR, JEAN  
PO BOX 21  
KITTERY POINT, ME 03905

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



DUDLEY TRUSTEE, THOMAS M  
DUDLEY TRUSTEE, DUDLEY W  
25 WOODMAN ROAD  
DURHAM, NH 03824

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



BURNETT, NICOLE  
BURNETT, JEFFREY  
15 TWIN OAKS DRIVE  
MOUNT VERNON, NH 03057

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



BLACKMAN, MICHAEL P & SAM  
810 CENTRAL AVENUE  
DOVER, NH 03820





## DEED OF DISTRIBUTION

HOWARD D. MEDWED of Cambridge, Massachusetts, Executor under the Last Will and Testament of ROSAMOND T. HALLE, deceased August 2, 2011, late of Cambridge, MA, and HOWARD D. MEDWED, TRUSTEE OF THE ROSAMOND T. HALLE FAMILY TRUST -1990, by the power conferred by law, and by every other power, (in distribution of the estate) grant to MARC TIMOTHY HALLE, whose mailing address is 260 Pearl Street, Cambridge, MA 02139, being the person entitled to distribution, the following property:

All of the real property and interests in real property owned by the decedent, Rosamond T. Halle, at the time of her decease, on Cutts Island at Kittery Point, in the Town of Kittery, County of York and State of Maine, including without limitation the property described in a deed from Rosamond Thaxter to Rosamond T. Halle dated September 18, 1965 and recorded in the York County Registry of Deeds in Book 1680, Page 253; the verbatim perimeter description of said certain real property according to the decedent's aforementioned title deed being as follows:

“Commencing at an iron pipe driven into the ground at the southerly sideline of a certain private right of way and adjoining property now or formerly of Benson, and running thence south 25° 55' east a distance of 155.46 feet by and along said land of Benson to another iron pipe driven into the ground at land now or formerly of Kerr; thence turning and running south 53° 48' west a distance of 174.19 feet by and along said land of Kerr to a drill hold in a stone which is part of the remains of an old stone wall at the Sea Point Road; thence turning and running north 65° 47' west a distance of 30 feet by and along said Sea Point Road and in part by the remains of said old stone wall to another iron pipe driven into the ground at other land of Thaxter et als; thence turning and running north 25° 55' west a distance of 184.78 feet to another iron pipe driven into the ground at the southerly sideline of the private right of way aforesaid; thence turning and running easterly by and along the sideline of said private right of way, along an arc of a curve having a radius of 446 feet, a distance of 140 feet, more or less, to a point; thence continuing by said sideline north 63° 55' east a distance of 52.73 feet to the iron pipe and point of beginning.

Also another certain lot or parcel of land together with the single garage located thereon situated across the private right of way aforesaid from the last described lot, and further bounded and described as follows:

Bounded northwesterly by the old right of way line of the Atlantic Shoreline Railroad a distance of 116 feet, more or less; easterly by land now or formerly of Benson a distance of 87.12 feet, and running from an iron pipe driven into the ground at the southeasterly sideline of the railroad right of way, south 25° 55' east to a pipe driven into the ground at the northerly sideline of the private right of way a distance of 98 feet, more or less; westerly by other land of Thaxter et als, by and along a line running from the northerly sideline of said private right of way to the southeasterly sideline of the Atlantic Shoreline Railroad upon a course running 5 feet distance from and easterly of the back wall line of a certain three-car garage located on Thaxter et als property a distance of 49 feet, more or less.

Together with the right in common with others to use the aforesaid private right of way leading from the Cutts Island Road to other lands of Thaxter, for access to the said parcels by foot or vehicle; and subject to the obligation in common with others to share the cost of repair and maintenance of said private right of way, as may appear of record.

Subject to perpetual easement for water supply and maintenance and repair of pipe lines, from the well located on the above-described premises, as the same now exists, for the owners of the building known as Cottage #2 on other land of Thaxter et als; westerly of the above premises and together with the perpetual easement upon and across said land occupied by Cottage #2, for the use of a septic tank located on that property, and together with the right to enter the same for purposes of maintaining and repairing the pipeline leading to said septic tank and for maintenance of the tank itself.

Together with all right, title and interest of the grantor herein, if any, in and to the land underlying the right of way of the Atlantic Shoreline Railroad and to the use of said right of way."

The hereinabove described property is hereby conveyed together with the benefit of an easement for pedestrian access and egress to and from Seapoint Road as more fully described in an Easement Deed from Molly Samson to Rosamond T. Halle dated August 13, 2003 and recorded in said Registry of Deeds in Book 13357, Page 235.

Also included in this conveyance are all of the furniture, furnishings, equipment, fixtures and other tangible personal property located upon or used in connection with the hereinabove described property at the time of the execution of this deed.


Title reference – with respect to sources of title to the hereinabove described property reference may be had to the aforementioned deed from Rosamond Thaxter to Rosamond T. Halle dated September 18, 1965 and recorded in said Registry of Deeds in Book 1680, Page 253.

Plan reference – reference is hereby made to a plan entitled “Standard Boundary Survey for Property at 6 Thaxter Lane, Kittery Point, York County, Maine, owned by Rosamond T. Halle” drawn by North Easterly Surveying, Inc. dated October 26, 2009 and recorded in said Registry of Deeds in Plan Book 340, Page 14.

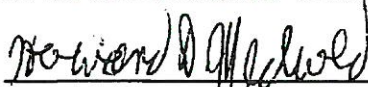
Morris Halle died on April 2, 2018, and David Halle, John Halle and Marc Timothy Halle have declined to serve as successor Co-Executors under the Last Will and Testament of Rosamond T. Halle and successor Co-Trustees of the Rosamond T. Halle Family Trust - 1990, leaving Howard D. Medwed as the duly appointed and serving sole Executor and sole Trustee.

This Deed of Distribution is given by the undersigned pursuant to Title 18-A, M.R.S.A., §3-906 and §3-907, for the purpose of distributing the hereinabove described property in kind and conveying the title in same to the abovenamed distributee, who is entitled to such distribution pursuant to Article Third, Paragraph 2, of the Last Will and Testament of Rosemond T. Halle and Article Fifth, Paragraph 2, of The Rosamond T. Halle Family Trust – 1990.

WITNESS my hand this 25 day of March, 2019.

  
\_\_\_\_\_  
Witness

ESTATE OF ROSAMOND T. HALLE

By:   
\_\_\_\_\_  
Howard D. Medwed, Executor

THE ROSAMOND T. HALLE FAMILY  
TRUST - 1990

*Anne Egan*  
Witness

By: *Howard D. Medwed*  
Howard D. Medwed, Trustee

COMMONWEALTH OF MASSACHUSETTS  
COUNTY OF SUFFOLK, SS.

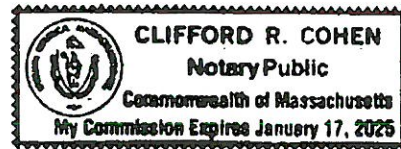
March 25, 2019

Then personally appeared the above named Howard D. Medwed and  
acknowledged the foregoing instrument to be his free act and deed in his said capacities.

Before me, *Clifford R. Cohen*  
Notary Public  
Print Name: Clifford R. Cohen  
My Commission Expires: January 17, 2025



Seal





# 150 foot Abutters List Report

Kittery, ME  
May 13, 2021

## Subject Property:

Parcel Number: 64-24B  
CAMA Number: 64-24B  
Property Address: 6 THAXTER LANE

Mailing Address: HALLE, MARC TIMOTHY  
260 PEARL STREET  
CAMBRIDGE, MA 02139

---

## Abutters:

Parcel Number: 58-2  
CAMA Number: 58-2  
Property Address: 3 SEAPOINT ROAD

Mailing Address: UNITED STATES OF AMERICA  
300 WESTGATE CENTER DRIVE  
HADLEY, MA 01035

Parcel Number: 64-22  
CAMA Number: 64-22  
Property Address: 10 THAXTER LANE

Mailing Address: TEN THAXTER LANE LLC C/O  
NATHANIEL E HUBBARD  
1300 N ARDMORE AVENUE  
MANHATTAN BEACH, CA 90266

Parcel Number: 64-23  
CAMA Number: 64-23  
Property Address: 8 THAXTER LANE

Mailing Address: THAYER, TODD S. THAYER, DEBORAH  
L.  
195 MCGREGOR STREET  
MANCHESTER, NH 03102

Parcel Number: 64-24  
CAMA Number: 64-24  
Property Address: 43 SEAPOINT ROAD

Mailing Address: BURNETT, NICOLE BURNETT, JEFFREY  
15 TWIN OAKS DRIVE  
MOUNT VERNON, NH 03057

Parcel Number: 64-24A  
CAMA Number: 64-24A  
Property Address: 47 SEAPOINT ROAD

Mailing Address: BLACKMAN, MICHAEL P & SAMSON,  
MOLLY  
810 CENTRAL AVENUE  
DOVER, NH 03820

Parcel Number: 64-24C  
CAMA Number: 64-24C  
Property Address: 3 THAXTER LANE

Mailing Address: FISHER, NEAL R KERR, JEAN  
PO BOX 21  
KITTERY POINT, ME 03905

Parcel Number: 64-26  
CAMA Number: 64-26  
Property Address: 34 SEAPOINT ROAD

Mailing Address: HELD ETAL, HERBERT J  
8211 GREENTREE MANOR LANE  
FAIRFAX STATION, VA 22039

Parcel Number: 64-27  
CAMA Number: 64-27  
Property Address: 32 SEAPOINT ROAD

Mailing Address: POP HELD INC C/O NANCY HERWIG  
15709 NELSON LANE  
HAYMARKET, VA 20169

Parcel Number: 64-28  
CAMA Number: 64-28  
Property Address: 30 SEAPOINT ROAD

Mailing Address: HELD SEAPOINT TRUST  
10916 JUSTIN KNOLL ROAD  
OAKTON, VA 22124

Parcel Number: 64-6  
CAMA Number: 64-6  
Property Address: 9 THAXTER LANE

Mailing Address: DUDLEY TRUSTEE, THOMAS M DUDLEY  
TRUSTEE, DUDLEY W  
25 WOODMAN ROAD  
DURHAM, NH 03824



www.cai-tech.com

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.

5/13/2021

Page 1 of 1

# Seacoast Classified Ads.com

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**Legals**

**Need to place a legal notice?**  
 Email your request to [SeacoastLegals@gannett.com](mailto:SeacoastLegals@gannett.com)  
 Please include notice text, publication name and date to publish along with your contact info.

**LEGAL NOTICE**  
 Supervisors of the Checklist Session, City of Somersworth  
 New Hampshire law requires that the Supervisors of the Checklist verify the voter checklist every ten years. Any person on the checklist who has not voted in the past four years of elections must re-register to remain on the checklist. The Supervisors are sending notice letters to the address the voter provided.  
 The Supervisors of the Checklist for the City of Somersworth will hold a session for re-registering voters who have not voted since April 1, 2017, accepting applications for new voter registration, accepting requests for corrections to the checklist, and changes of political party affiliation on:

Date: Wednesday, June 9, 2021  
 Time: 5:00 p.m. - 5:45 p.m.  
 Location: One Government Way  
 City Clerk's Office  
 Somersworth, NH 03878

May 19, 26, 2021

**NOTICE OF PUBLIC HEARING**  
**TOWN OF KITTERY - BOARD OF APPEALS**  
**Tuesday, May 25, 2021 - 6:30 p.m.**  
**Virtual Meeting**  
 Link can be found at <https://www.kittery.me.gov/board-appeals/events/44084>

Anne Whitney on behalf of Marc Halle, owner 6 Thaxter Lane, requesting a Miscellaneous Variation to expand a non-conforming structure in the Residential - Rural Conservation zone per Code Section 16.7.3.3.B(1) & 16.6.4.C(1)

Due to the Declaration of a State of Emergency for the State of Maine and Town of Kittery, this meeting will be held remotely in accordance with LD 2167. The meeting will be broadcast on Channel 22, Facebook, and live broadcast from the Town's website. Application information is available for public inspection 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.

**PUBLIC HEARING NOTICE**  
**TOWN OF NORTH BERWICK**  
**THURSDAY, MAY 27, 2021**  
 Planning Board Public Hearing  
 Zoom 836 6609 4845  
 6:30 PM  
 Conditional Use Permit Request:  
 The Planning Board will hold a Public Hearing

**Legals**

**LEGAL NOTICE**  
**NEWMARKET ZONING BOARD OF ADJUSTMENT**  
**MONDAY, JUNE 14, 2021**  
**7:00 P.M.**  
**MEETING HELD IN TOWN HALL AUDITORIUM**

There will be a public hearing for an application for Special Exception reference Section 32-5(2)(a) & (b) for horizontal and vertical expansion of an existing legal non-conforming single-family structure and to permit the construction of an addition to the dwelling that would extend into the Shoreland Protection Overlay District and encroach upon the 125 foot primary structure shoreland setback, requested by Steven & Melinda Breeker. The property is located at 19 Moody Point Drive, Tax Map R2, Lot 43-1, R1 Zone.

**LEGAL NOTICE**  
**Strafford County**  
**Request for Bid/Proposal**

The Strafford County Commissioners are accepting sealed proposals for the following item(s):

**Update of Elevator - Riverside Rest Home**

**Mandatory Site Review May 26th, 9 AM**  
**Riverside Rest Home Entrance**  
**276 County Farm Rd. Dover, NH**

**\*\*All Bidders are required to attend this site review\*\***

Specifications are available by contacting Gwen Weisgarber @ 603-516-5132 or Jim Gaunya @ 603-817-1057. All proposals must be submitted in a sealed envelope clearly marked "RRH Elevator" and must be received by June 10th @9AM at the Strafford County Commissioners Office, 259 County Farm Road - Suite 204, Dover, NH 03820. The Strafford County Commissioners reserve the right to reject any and all bids/proposals, to award the bid to other than the low bidder if deemed "bid most advantageous to the County" and to waive any defects in bids.  
 May 17, 18, 19, 2021

**LEGAL NOTICE**  
**REVISED PORTSMOUTH COMMUNITY DEVELOPMENT BLOCK GRANT FY22 ANNUAL ACTION PLAN DRAFT**

Notice is hereby given that the City of Portsmouth has a Revised Draft Annual Action Plan and Budget and that the previously Notified

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I am selling my 2002 Nissan Maxima GXE 3.5L V6 automatic sedan with 196,000 miles. This car has been very reliable and gets excellent gas mileage. It has not been in any accidents, and the underside is very clean as show in the pictures. VIN# JN1DA31D82T422894. AC works great and blows ice cold. Automatic windows and driver's seat as well Bluetooth ready. Check engine light just came on the dash, the garage said it needs a knock sensor (\$80 part). This car runs and drives. Nissans run forever. Please let me know if you have any questions. I am asking \$2800. Call (207) 805-4539

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 Newington, NH  
[cs@greatbaymarine.com](mailto:cs@greatbaymarine.com)

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 BEACH Maine

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