June 13, 2019

PLAN REVIEW NOTES 35 Thaxter Lane Shoreland Development Plan Review

### Town of Kittery Maine Town Planning Board Meeting June 13, 2019

#### ITEM 4 - 35 Thaxter Lane – Shoreland Development Plan Review

Action: Accept or deny application; Approve or deny plan. Owners/Applicants John & Mary Adamik request consideration to construct a single-family dwelling on a vacant parcel located at 35 Thaxter Lane (Tax Map 64 Lot 10A) in the Residential – Rural Conservation (R-RC) and Shoreland Overlay (OZ-SH-250') Zone, Agent is Chris Redmond, Mighty Roots.

#### PROJECT TRACKING

1103201			
REQ'D	DESCRIPTION	COMMENTS	STATUS
YES	Determination of Completeness	Scheduled for 6/13/2019	PENDING
NO	Site Walk	At the Board's discretion	
NO	Public Hearing	At the Board's discretion	
Yes	Shoreland Development Plan Approval		Feasible for 6/13/2019

Plan Review Notes reflect comments and recommendations regarding applicability of Town Land Use Development Code, and standard planning and development practices. Only the PB makes final decisions on code compliance and approves, approves with conditions or denies final plans. Prior to the signing of the approved Plan any Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN ½: HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS. As per Section 16.4.4.L — Grading/Construction Final Plan Required. — Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.

#### **Background**

Planning Board review of this project is required by 16.10.3.4 because it is located in the Shoreland Overlay Zone. The parcel is a vacant lot which conforms to all of the applicable zoning requirements. The proposed development is a single-family dwelling located outside of the 100-foot buffer from the upland edge of a coastal wetland.

#### **Staff Review**

- 1. A single-family dwelling units is special exception use in the OZ-SH-250' Zone. The proposed dwelling is outside of the 100-foot required waterbody and wetland setback. The Board may approve the special exception request provided the following conditions are met:
  - a. There is no location on the property, other than a location within the Shoreland Overlay or Resource Protection Overlay Zones, where a single-family dwelling can be built, or similarly for a duplex in the Shoreland Overlay Zone.
  - b. The lot on which the structure is proposed is undeveloped and was established and recorded in the York County Registry of Deeds before inclusion in the Shoreland or Resource Protection Overlay Zones.
  - c. All proposed buildings, sewage disposal systems, other than municipal sewer, and other improvements are located:
    - i. On natural ground slopes of less than 20%;
    - ii. Outside the floodway of the one-hundred-year floodplain along rivers; and

- iii. Outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps.
- d. The lowest floor elevation or openings of all buildings and structures, including basements, must be elevated at least one foot above the elevation of the one-hundred-year flood, the flood of record or, in the absence of these, the flood as defined by soil types identified as recent floodplain soils.
- e. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the one-hundred-year floodplain.
- f. The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation may not be altered by variance.
- g. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent but not less than 75 feet horizontal distance. In determining the greatest practical extent, the Planning Board must consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain and its proximity to the wetlands.
- 2. The maximum devegetated area for the Shoreland Overlay Zone is 20%. The proposed development results in a devegetated area of 6.8%.
- 3. According to Section 16.9.2.2, the cutting or removal of vegetation in the Shoreland Overlay Zone is limited to that which is necessary for the single family dwelling use. The area of disturbance is shown on the plan and seems reasonable for the proposed development.
- 4. The flood hazard zone is located on the northern edge of the property. The proposed development is outside of this zone.

#### **Recommendations**

The application appears to be complete and meets the standards of Title 16. Staff recommends the Board accept the application and approve the Shoreland Development Plan:

Move to accept the Shoreland Development Plan application dated May 31, 2019 from Owners/applicants John & Mary Adamik to construct a single family dwelling on a vacant parcel located at 35 Thaxter Lane (Tax Map 64 Lot 10A) in the Residential – Rural Conservation (R-RC) and Shoreland Overlay (OZ-SH-250') Zone as complete.

Move to approve the Shoreland Development Plan application dated May 31, 2019 from Owners/Applicants John & Mary Adamik to construct a single family dwelling on a vacant parcel located at 35 Thaxter Lane (Tax Map 64 Lot 10A) in the Residential – Rural Conservation (R-RC) and Shoreland Overlay (OZ-SH-250') Zone, upon the review and voting, in the affirmative, on the Findings of Fact.

Kittery Planning Board
Findings of Fact
For 35 Thaxter Lane

Shoreland Development Plan Review

**UNAPPROVED** 

WHEREAS: Owners/Applicants John & Mary Adamik request consideration to construct a single-family dwelling on a vacant parcel located at 35 Thaxter Lane (Tax Map 64 Lot 10A) in the Residential – Rural Conservation (R-RC) and Shoreland Overlay (OZ-SH-250') Zone. Agent is Chris Redmond, Mighty Roots.

Hereinafter the "Development" and

Pursuant to the Plan Review meetings conducted by the Town Planning Board as noted {in the plan review notes prepared for 4/14/2016}

Shoreland Development Plan Review	6/13/2019
Approval	6/13/2019

And pursuant to the application and plan and other documents considered to be a part of a plan review decision by the Planning Board in this Finding of Fact consisting of the following (hereinafter the "Plan"): {as noted in the plan review notes prepared for 4/14/2016}

- 1. Shoreland Development Plan Application, received 6/3/2019
- 2. Shoreland Development Plan, Seaport Engineering, LLC, dated 5/31/2019

**NOW THEREFORE,** based on the entire record before the Planning Board and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings and conclusions:

#### FINDINGS OF FACT

#### **Chapter 16.3 LAND USE ZONE REGULATIONS**

16.3.2.17.D Shoreland Overlay Zone
(1)(d) The total footprint of the areas devegetated for structures, parking lots and other
impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing
development, except in the following zones
Findings: The proposed development will have a devegetated area of 6.8% of the lot.
Conclusion: The requirement appears to be met.
Vote: in favor against abstaining

#### 16.6.6 Basis for Decision

**16.6.6.1.B** In hearing appeals/requests under this Section, the Board of Appeals [note: Planning Board is also subject to this section per 16.7.3.5.5 above] must use the following criteria as the basis of a decision:

habitat;

- 1. Proposed use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use zones;
- 2. 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;
- 3. Safety, the health, and the welfare of the Town will not be adversely affected by the proposed use or its location; and
- 4. Use will be in harmony with and promote the general purposes and intent of this Code. The Board must also give consideration to the factors listed in 16.6.6.2.

Finding: The proposed development does not pose a concern.
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	Conclusion:	The rec	uirement	appears	to	be	met
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Vote:	in favor	against	abstaining
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Article X Shoreland Development Review
16.10.10.2 Procedure for Administering Permits
D. An application will be approved or approved with conditions if the reviewing authority
makes a positive finding based on the information presented. It must be demonstrated the
proposed use will:
1. Maintain safe and healthful conditions;
Finding: The proposed development as represented in the application and on the plans does not
appear to have an adverse impact.
Conclusion: This requirement appears to be met
Vote: in favor against abstaining
2. Not result in water pollution, erosion or sedimentation to surface waters;
·
Finding: Maine DEP Best Management practices will be followed for erosion and
sedimentation control during site preparation and building construction (see conditions #2 and
#3) to avoid impact on adjacent surface waters.
<u> </u>
Conclusion: This requirement appears to be met
Vote: in favor against abstaining
3. Adequately provide for the disposal of all wastewater;
Finding: The plan shows a proposed septic system location.
Conclusion: This requirement appears to be met.
Vote: in favor against abstaining

4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife

<u>Finding</u> : Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction (see conditions #2 and #3) to avoid impact on adjacent surface waters.				
Conclusion: The proposed development does r	not appear	to have an a	dverse impac	t.
	Vote:	_ in favor	against	_ abstaining
5. Conserve shore cover and visual, as well as waters;	actual po	ints of access	s to inland an	ed coastal
Finding: Shore cover will not be adversely imp				
Conclusion: This requirement appears to be m		in forces		ahatainina
6. Protect archaeological and historic resource	Vote:	_ in favor	against	_ abstaining
o. Protect archieological and historic resourc	es,			
Finding: There does not appears to be any reso	ources imp	pacted.		
Conclusion: This requirement appears to be m				
7. N 1 . 1	Vote:	_ in favor	against	_ abstaining
7. Not adversely affect existing commercial fis fisheries/maritime activities district;	hing or m	aritime activi	ities in a com	mercial
Finding: The property is not located in the Cor	nmercial 1	Fisheries / M	aritime Use Z	Zone.
Conclusion: This requirement is not applicable	<b>.</b>			
	Vote:	_ in favor	against	_ abstaining
8. Avoid problems associated with floodplain of	developme	ent and use;		
<u>Finding</u> : A flood zone is located northeasterly proposed in the flood zone.	corner of	the property.	No developm	nent is
Conclusion: This requirement appears to be m	et.			
	Vote:	_ in favor	against	_ abstaining
9. Is in conformance with the provisions of this	s code;			
<u>Finding</u> : The proposed development appears to Code.	be in con	nformance wi	ith the provis	ions of this
Conclusion: This requirement appears to be m	et.			
	Vote:	_ in favor	against	_ abstaining
10. Be recorded with the York county Registry	of Deeds.			

<u>Conclusion</u>: As stated in the Notices to Applicant contained herein, shoreland development plans must be recorded with the York County Registry of Deeds prior to the issuance of a building permit.

Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review standards for approval and, therefore, the Planning Board approves the Shoreland Development Plan subject to any conditions or waivers, as follows:

Waivers: None

#### **Conditions of Approval** (to be depicted on final plan to be recorded):

- 1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
- 2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
- 3. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
- 4. All Notices to Applicant contained herein (Findings of Fact dated 6/13/2019).

The Planning Board authorizes the Planning Board Chair to sign the Final Plan and the Findings of Fact upon confirmation of required plan changes.

	Vote of	_ in favor	_ against	_ abstaining
APPROVED BY THE KITTE	ERY PLAN	NNING BOA	RD ON	June 13, 2019
	D	utch Dunkelb	erger, Planni	ng Board Chair

#### **Notices to Applicant:**

- 1. Incorporate any plan revisions on the final plan as required by Planning Board and submit for Staff review prior to presentation of final mylar. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with the permitting, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
- 2. One (1) mylar copy of the final plan and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department for signing. Date of Planning Board approval shall be included on the final plan in the Signature Block. After the signed plan is recorded with the York County Registry of Deeds, a mylar copy of the signed original must be submitted to the Town Planning Department.
- 3. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating as elements the Development Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

# SHORELAND DEVELOPMENT PLAN APPLICATION



## TOWN OF KITTERY

## Planning & Development Department

200 Rogers Road, Kittery, ME 03904 Telephone: 207-475-1323 Fax: 207-439-6806

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PROPE		Physical Address	36 TH	WAXER L	4HE 039	105
DESCRIPTION		Base Zone	R-RLC	Overlay Zone (s)	SHOR	ELAHD WATER BODY
		Name	JOHNA MA	RY ADAMIK		19 CHERUTCE LAHE
OWNER INFORM		Phone	948-45		Mailing Address	BYFIELD, MA. 01922
		Email	j.adomik	CLOMENT. NO		
		Name	CHELS 1	ZEDHOHD	Company	MUHIPAGOTE
AGENT		Phone	603-303	3-1013		13 ALJEN AVE.
INFORM	MATION	Email	c. rollya	demotypass	Mailing Address	CRETILAND HH.
	7-4-W-17-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-	Fax		A 1. com		03840
APPLICANT INFORMATION		Name	TEHN & MAR	4 ATAMIK	4550	19 CARBENTATE LAHE
		Phone	948-12	1-9769	Mailing Address	BY FIELD, MA, 0192
		Email	j.colemnKa	CLONKUST IE		
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	Existing	Use:	AND.			
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ESCRIPTION	Propose	d Use (descri	be in detail):	1211	7	DEN/ F. 2500 SO
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PROJECT D						
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Please describe any construction	constraints (wetlands, shorelan	d overlay zone, flood plain, non-conformance,
etc.)		
PROJECT DECSCRIPTION SCRIPTION	OVERLAY TE	THE
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Loortiful boyce provided to the best of		
will not deviate from the Plan submitted with	owledge, information requested	for this application that is true and correct and I
Applicant's	Owner's	evelopment Department or any changes.
Signature:	Signature:	
6/3/2019		
Date: 43/2019	Date:	
*Applicant Service Accounts: Fees to pay of	ner direct costs necessary to con	applete the application process, not including
application fees. Title 3, Chapter 3.3.		
MINIM	UM PLAN SUBMITTAL REQUIF	PEMENTS
10 plan copies may be half-size (	all supporting documents, and 11"y17") and 2 must be full significant.	the Development Plan and Vicinity Map
Shoreland Development Plan format and	content:	Le (24 X30 )
8		
A) Paper Size; no less than 11" X 17" or great		
B) Plan Scale		
☐ Under 10 acres: no greater than 1" = 30"		
☐ 10 + acres: 1" = 50'		
C) Title Die i		
C) Title Block Title: Shoreland Development Plan		
☐ Applicant's name and address		
☐ Name of preparer of plan with profession	al information	
☐ Parcel's Kittery tax map identification (ma	ap – lot) in bottom right corner	
☐ Vicinity Map or aerial photo showing g	eographic features 5,000 feet	around the site.
D) Signature Block		
☐ Area for signature by Planning Board Cha	ir and Date of Planning Board A	pproval
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Development Plan mu	st include the following existing and	proposed information:
Existing:	Proposed: (Pl	an must show the lightened existing topography
I land the Zenes and have the	under the propos	ed project plan for comparison.)
<ul> <li>☐ Land Use Zones and boundaries</li> <li>☐ Topographic map (optional)</li> </ul>	□ Pocception	
☐ Wetlands and flood plains		reas and open space s and building envelopes
Water bodies and water courses	☐ Lot dimension	ons
Parcel area Lot dimensions	Utilities (Sev	ver/septic, water, electric, phone)
Utilities (Sewer/septic, water, electric, phone)	Streets, driv	eways and rights-of-way
Streets, driveways and rights-of-way		olume, devegetated area, and building coverage
<ul> <li>Streets, driveways and rights-of-way</li> <li>Structures</li> <li>Distance from structure to water body and properties</li> <li>Floor area, volume, developerated area, and built</li> </ul>		
Floor area, volume, devegetated area, and bui	eways and intersections	
as the second se	☐ Nearest fire	hydrant
	☐ Nearest sign	ificant water body; ocean, wetland, stream
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AN APPLICATION THE TOWN PLANNER DEEMS SUFFICIENTLY LACKING IN CONTENT WILL NOT BE SCHEDULED FOR PLANNING BOARD REVIEW. Expansion/Construction Analysis within the Shoreland Overlay Zone<sup>1</sup> (see Table 16.9) Size of water body or wetland: Size of water body or wetland: Size of sf-1 acre Structure distance from water body: 198 feet STRUCTURE Existing Proposed % Increase\* SF (Area) D sf 1636 sf % New: Demo/Rebuild: Value: Construction: Maintenance/repair: \*Total increase in area may not exceed 30% for any new construction since 1/1/1989. PARCEL DE-VEGETATION % Allowed\* **Existing SF** Proposed SF % Proposed\* Lot Size (sf) sf \*See underlying zone standards for de-vegetated area percent allowed within a Shoreland Overlay. **BUILDING COVERAGE** % Allowed\* Existing SF Proposed SF % Proposed\* Lot Size (sf) 131,849 % 1636 sf 19% sf

<sup>1</sup>Calculations for area, volume, and de-vegetated areas must be included on the final plan and certified by a State of Maine registered architect, landscape architect, engineer, or land surveyor.

\*See underlying zone standards for building coverage percent allowed.



