

# ITEM 2

**M44 L59  
UNAPPROVED**

**KITTERY PLANNING BOARD  
FINDINGS OF FACT  
for  
50 Chauncey Creek Road  
Shoreland Development Plan Amendment**

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**WHEREAS:** Owners/applicants Thomas and Michele Jordan request approval of a shoreland development plan amendment to expand a deck and incorporate an 8' x 14' storage structure as part of the deck on a 7,800 +/- square foot parcel located at 50 Chauncey Creek Road (Tax Map 44 Lot 59) in the Residential Kittery Point Village (R-KPV), Shoreland Overlay (OZ-SL-250') and Resource Protection (OZ-RP) zones. Agent Tom Emerson, studioB-E.

Hereinafter the "Development," and

Pursuant to the Plan Review meetings conducted by the Town Planning Board as noted;

| REQ'D | ACTION  | COMMENTS   | STATUS |
|-------|---|------------|--------|
| YES   | Shoreland Development Plan Review             | 2/14/2019  | HELD   |
| NO    | Site Walk                                     | 2/28/2019  | HELD   |
| NO    | Public Hearing                                | 3/14/2019  | HELD   |
| YES   | Shoreland Development Plan Amendment Approval | 10/10/2019 | DENIED |

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"):

1. Shoreland Development Plan Application, dated 9/19/2019
2. Shoreland Development Plan, Easterly Surveying, Inc, 9/19/2019
3. Jordan Cottage, Storage Building, studioB-E Architecture, 9/19/2019

**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:

1. Planning Board review of this plan amendment is required by 16.10.3.4 Shoreland Development Review because the proposed development is located within Shoreland Overlay and Resource Protection Zones.
2. The request is to extend the existing deck by 112 sf and incorporate a deck storage addition consisting of an 8' x 14" shed with ramp as part of the deck on a 7,800 sf +/- parcel of land. The lot is nonconforming with an existing single family dwelling structure that is nonconforming to 100-foot setback from the water and side yard setbacks. A dwelling is a special exception use in the Shoreland Overlay Zone.
3. The Planning Board approved a previous shoreland development plan on March 14, 2019. The proposal was to remove the building frame of the dwelling and rebuild on the same foundation;

remove the enclosed front porch and rebuild on a new foundation and expand the existing deck by 67 sf.

4. The previous request also included a storage shed 80 sf in size within the 100 foot setback. Under 16.3.2.17.D.2.e (Shoreland Overlay Zone, Standards, Principal and Accessory Structures) *On a nonconforming lot of record on which only a residential structure exists, where it is not possible to place an accessory structure and meet the required water body setbacks, the CEO may issue a permit to place a single accessory structure with no utilities. Such a structure must not exceed 80 square feet in size and must be located as far from the shoreline as practical and meet all other applicable standards such as lot coverage and vegetation clearing limitations. In no case is the accessory structure allowed to be closer to the water than the principal structure.* The property contains an existing boathouse that is located on the upland portion of the lot. Prior to the Board's decision on March 14, 2019 for the previous request, it was advised by the Town Attorney and the Town Shoreland Resource Officer that the proposed storage shed could not be permitted as the single accessory structure due to the existence of the boathouse.
5. Per Section 6.3.2.17.D (Shoreland Overlay Zone, Standards) of Title 16 the total footprint of the devegetated area of a lot cannot exceed 20%. The property is currently non-conforming with approximately 26.5% devegetated. The previously approved plan involved the removal of some of the existing impervious surfaces and revegetation to lower the overall devegetated area to 25.3%. The proposed amendment to the approved plan results in an increase in the devegetated area to 25.9%.
6. The proposed amendment to the approved plan would make the total building footprint more non-conforming to the devegetated area standard.
7. The request is not an expansion to a principal structure as the deck does not shelter or enclose. Therefore, the proposed structure is considered to be an accessory structure that could not be permitted as one already exists on the lot in the form of the boathouse.

**VOTE TO DENY:** On October 10, 2019, the Planning Board, made a motion to deny the Shoreland Development Plan Amendment:

**Vote:   6   in favor   0   against   0   abstaining**

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Dutch Dunkelberger, Planning Board Chair