

**Town of Kittery
Planning Board Meeting
July 11, 2019**

ITEM 2 – 7 Stoneridge Way – Right of Way Plan Review

Action: Approve or deny plan. Owner / applicant, Joshua L. Philbrick requests consideration for an additional dwelling unit on a 4.89-acre lot on a private right-of-way off Remicks Lane (Tax Map 65 Lot 17) in the Residential Rural (R-RL) Zone.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
Yes	Plan Review / Completeness/Acceptance	6/13/2019	ACCEPTED
No	Site Visit	Board determined that a site walk was not warranted.	
No	Public Hearing	Public comment taken at the 6/13/2019 meeting	
Yes	Final Plan Review/Approval	Possible for 7/11/2019	PENDING
<p>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, when applicable, recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS. 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 has been duly recorded in the York County registry of deeds, when applicable.</p>			

Background

The Planning Board on March 10, 2005 approved a Right-of Way Plan for Raymond Gagner, Jr. & HMA, Inc. for what is now known as Stoneridge Way off of Remicks Lane. A note on the approved plan states: “The road over this right-of-way shall be built in accordance with the Town of Kittery requirements for design and construction standards for a private way. This right-of-way is to serve four (4) single family dwelling units. Any additional dwelling units would require Planning Board review.”

On April 10, 2019, the Code Enforcement Officer issued a building permit to the applicant’s builder for the construction of a duplex home, 28’ x 50’ in dimensions with proposed decks and steps, for 7-9 Stoneridge Way. The building permit was subsequently revised on May 3, 2019, after it was discovered that the proposed duplex would create an additional dwelling unit over the four (4) permitted under the original approval of the ROW referenced above. The conditions of approval for the duplex in the May 3rd permit required that the applicant return to the Planning Board when the fourth is built to upgrade the road to the required specifications. The Code Enforcement Officer indicated there would be no Certificate of Occupancy issued for either unit without Planning Board approval of the updated right-of-way plan.

Staff Review

1. The original ROW plan was approved with a road classified as a private way. According to the Street classification (16.8.4.3) of our Code, “Private ways are dead-end, very-low-volume residential streets that connect to streets of a higher classification and function similar to an individual driveway by providing a low standard two-way traffic flow. Private ways may not be used in high-density residential developments or subdivisions of four or more lots. Private ways cannot be dedicated for public acceptance, and all maintenance and improvements must be controlled by proprietorship, corporation, association or deed covenants. The ADT would be 12 to 35 trip ends.” Adding an additional dwelling unit bumps the street serving the development into Class II Private Street standards (based upon the ADT).
2. Table 1 in Chapter 16.8, *Attachment 1*, under Street Width Design the following are required for a street serving five (5) dwelling units: 40-foot-wide ROW; 20 feet of travel pavement; 5’ sidewalk/pedestrian way; and gravel shoulders on both sides. The ROW is 40 feet wide but the

way does meet the other street width design standards. The applicant has requested waivers from the requirements but did not include one for the gravel shoulders. The justification given for the waivers is the existence of a large wetland area along the existing way which would be impacted by the required improvements.

3. Since the June 13th meeting, Staff has worked with the applicant to revise the ROW plan to add language relating to potential conditions of approval that the Board discussed with the applicant at the June 13th meeting. Additional plan information has also been added to comply with plan requirements. Staff has also reviewed a proposed private road maintenance agreement document furnished by the applicant. Staff suggested a few changes that would include adopting by-laws for the association and fleshing out the maintenance costs, dues and enforcement process for collecting the dues

Recommendation / Action

Staff has been informed that the applicant will not have the revised plan and proposed private road association documents in time for the packets. The revised plans will be provided at the meeting and the road association documents handled as a condition of approval as outlined below.

Move to approve the waiver requested from Section 16.8, Table 1b. Travel pavement to allow the existing gravel surface.

Move to approve the waiver requested from Section 16.8.4.13, Table 1c. Sidewalk/pedestrian way to not require the construction of a sidewalk along the existing ROW.

Move to approve the waiver requested from Section 16.8, Table 1d. Gravel shoulder to not require gravel shoulders on both sides.

Move to approve the right-of-way plan application with associated plan dated from owner / applicant, Joshua L. Philbrick for an additional dwelling unit on a 4.89-acre lot on a private right-of-way off Remicks Lane (Tax Map 65 Lot 17) in the Residential Rural (R-RL) Zone with the following conditions:

- 1) *No more than five (5) dwelling units may be serviced by Stoneridge Way until the road is brought up to the Town's Class II Private Streets road design and construction standards. This requirement may not be waived, except for the required sidewalks; and,*
- 2) *A formal private road association must be formed and chartered to maintain the ROW with approval of the association documents by the Kittery Planning Department and the Town Attorney.*

From: Jamie Steffen
To: ["Josh77979@yahoo.com"](mailto:Josh77979@yahoo.com)
Subject: ROW Plan Wording and Conditions of Approval
Date: Thursday, June 20, 2019 8:43:00 AM
Attachments: [PrivateRoadsandRoadAssociations.pdf](#)

Hi Josh,

As I told on the phone, for the Planning Board meeting on July 11, we need to have the plan wording revised to title the plan – Plan Depicting a “Right-of-Way”, Stoneridge Way or something along those lines. You should have Civil Consultants add under Notes or under a heading – Conditions of the Approval:

- 1) The Kittery Planning Board grants approval for no more than 5 dwelling units on Stoneridge Way under existing road conditions (June 2019). No more than 5 dwelling units may be serviced by Stoneridge Way until the road is brought up to the Town's Class II Private Streets road design and construction standards. This requirement may not be waived, except for the required sidewalks; and,
- 2) A formal private road association must be formed and chartered to maintain the ROW with approval of the association documents by the Kittery Planning Department and the Town Attorney.

You should also have Civil Consultants add some further information to the plan:

- 1) Zoning Information block – Residential – Rural R-RL Zone;
- 2) Signature block for Planning Board approval;
- 3) Names and address of the owner of record of the portion of Remicks Lane which abuts the entrance to Stoneridge Way.

We will need 10 copies of 11” x 17” plans and 2 copies of a 24” x 36” plan by July 3rd. I am also including a guide for forming Private Road Associations that might be useful for you.

Please let me know if you have any further questions. You can also have Civil Consultants contact me if they have any questions about the new plan.

Thank you,

Jamie

Jamie Steffen
Town Planner
Town of Kittery
200 Rogers Road
Kittery, ME 03904
1-207-475-1323
jsteffen@kitteryme.org