

PLAN REVIEW NOTES
9 Lawrence Lane M18 L31
Shoreland Development Plan Review

November 8, 2018 Page 1 of 3

# Town of Kittery Maine Town Planning Board Meeting November 8, 2018

### ITEM - 9 Lawrence Lane - Shoreland Development Plan Review

Action: Accept or deny application. Approve or deny plan. Owner/applicant William Dean Howells requests consideration for the expansion and repair of a nonconforming boathouse and foundation on a 1.86 acre parcel located at 9 Lawrence Lane (Tax Map 18 Lot 31A) in the Residential – Kittery Point Village (R-KPV) and the Shoreland Overlay (OZ-SL-250') Zones.

#### PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
YES	Determination of Completeness/Acceptance		Scheduled for 11/8/18
NO	Public Hearing		
NO	Site Walk		
YES	Final Plan Review and Decision		

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 1/4: HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS. As per Section 16.4.4.13 – 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 Shoreland Development Review, because the proposed development is located within the required 250-foot setback in the Shoreland Overlay Zone. The parcel includes a single-family dwelling, barn, greenhouse, pool and a boathouse on a conforming lot (40,000 sf), 1.86 acres in size in the R-KPV zone.

The project consists of the expansion and repair of the boathouse and foundation which was damaged during a storm in in the spring of 2018. The boathouse is located entirely within the 100-foot shoreland setback and is at its closest point 32.7+- feet from the Highest Annual Tide (HAT). As part of the repair, the applicant is proposing an 120 square foot expansion of the boathouse. The expanded portion of the boathouse will be on piers as well as supported by an existing stone retaining wall. The expansion will not be closer the resource than the existing boathouse and will include a new roof. The overall height of the replaced boathouse will be less than 20 feet.

The property is currently conforming with 12% devegetated area (20% is the requirement), and with the improvements proposed the devegetated area will only increase to 12.7% and will remain in conformance.

### **Staff Review**

- 1. The plans incorrectly show the Highest Annual Tide at 6' NAVD88. For Kittery the elevation 6.3' NAVD88 is equivalent to the MLLW elevation of 11.3' that is typical of NOAA/NOS tide tables, and is the regulatory elevation used for identifying the Highest Annual Tide (HAT), or the upland edge of a coastal wetland. The plan needs to be revised to reflect 6.3' as the HAT and clearly state HAT, not High Water Line.
- 2. The proposed expansion does not meet the requirements of the Shoreland Zone (OZ-SL-250'). However, the provisions of Title 16.7 Article III. Nonconformance apply to the property and existing structures.

**16.7.3.3.B** *Nonconforming Structure Repair and Expansion* provides for expansion of a nonconforming structure within the Shoreland Zone within certain standards and requirements.

- a. The foundation under the building expansion must be constructed to meet the setbacks to the greatest extent practical as determined by the Planning Board using 16.7.3.3.B's criteria.
  - i. The applicant has not stated in the narrative what the use of the boathouse is for. If it is not for a functionally water-dependent use a full replacement of the structure and reconstruction of the foundation would need to be placed such that setback requirements are met to the greatest practical extent as determined by the Planning Board based upon the criteria specified in 16.7.3.3A(2).
  - ii. The proposed addition as proposed is slightly farther away from the than the rest of the existing structure, making it no more non-conforming.
- b. Since the structure is located less than 100 feet from the HAT, the maximum total footprint for the structure may not be expanded to a size greater than 1000 sf or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The height cannot be more than 20 feet or the height of the existing structure, whichever is greater. Roof slope must be 8:12 pitch. (see 16.7.3.3.B[4][a]).
  - i. The structure is at its closest point 32.7 feet from the HAT, however as noted before the HAT was incorrectly depicted.
  - ii. The expansion will be 120 sf, the existing structure is noted as being 471 sf. With the expansion, the structure will be 1,000 sf which is the limit permitted by Code.
  - iii. The maximum height of the boathouse is limited to 20 feet.
  - iv. The proposed roof slope is not indicated on the plans but it appears that it matches the existing roof pitch. If it less than an 8:12 pitch the applicant should consider requesting a waiver for the roof slope. There is an ordinance amendment before the Town Council to remove this requirement, however it has not yet been adopted.
- 3. The Shoreland Development Plan shows a proposed architectural "open" fence enclosing the perimeter of the pool and boathouse area the majority of which is located with the 100 foot shoreland setback. The height of the fence is not specified but if it is under 8 feet high it is not considered a structure and would not be subject to the nonconforming structure regulations. For the portions of the fencing within the State jurisdictional area a Permit By Rule (PBR) may be required.
- 4. Per 16.3.2.17.D (d) (Shoreland Overlay Zone, Standards) the total footprint of the devegetated area cannot exceed 20%. The property is currently 12+-% devegetated area and after the boathouse expansion the devegatated area will be 12.7%.
- 5. It appears that the existing boathouse is located within the a flood hazard area, Zone V2 (El 13) "Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors determined" as shown on FEMA FIRM Community Panel No. 230171 0005 D, effective date: July 3, 1986, which has a base flood elevation of 13 feet. The finished floor elevation of the structure is shown to be 12 feet which would necessitate a flood hazard development permit being obtained from the Code Enforcement Officer before any construction begins.

### Recommendation

While a site walk and public hearing are not required, the Board will need to consider whether or not to hold them. Staff recommends that the Board conduct both.

### **Action**

If the Board concurs with Staff's recommendation, the Board may use one or both of the motions below.

Move to schedule a site visit on {date and time} for the Shoreland Development Plan application dated October 8, 2018 from owner/applicant William Dean Howells who requests consideration for the expansion and repair of a nonconforming boathouse and foundation on a 1.86 acre parcel located at 9 Lawrence Lane (Tax Map 18 Lot 31A) in the Residential – Kittery Point Village (R-KPV) and the Shoreland Overlay (OZ-SL-250') Zones.

And/or

Move to schedule a public hearing on {date} for the Shoreland Development Plan application Owner/applicant William Dean Howells requests consideration for the expansion and repair of a nonconforming boathouse and foundation on a 1.86 acre parcel located at 9 Lawrence Lane (Tax Map 18 Lot 31A) in the Residential – Kittery Point Village (R-KPV) and the Shoreland Overlay (OZ-SL-250') Zones.

# **CIVILWORKS NEW ENGLAND**

181 WATSON ROAD P.O. BOX 1166 DOVER, NH 03821-1166 PHONE: 603.749.0443 FAX: 603.749.7348

October 10, 2018

**VIA USPS** 

Planning Board Town of Kittery 200 Rogers Road Kittery, ME 03904

Re:

Shoreland Development Plan Application

9 Lawrence Lane

Kittery Point, Maine 03905 Our Reference No. 18032

### Dear Chairman:

Pursuant to Chapter 16.3.2.17 of the Town of Kittery Code, Shoreland Zoning Regulations, we are pleased to submit the attached application and supporting materials for work within the 250' Shoreland Zone adjacent to a protected natural resource, the Piscataqua River. The project consists of the repair of a boathouse located at 9 Lawrence Lane, Kittery Point, Maine 03095.

The proposed activity includes the repair of an existing boathouse and less than 30% expansion within the 250' Shoreland Zone and 75' NRPA setback for work adjacent to the upland edge of a coastal wetland.

Please contact me at 603-749-0443 or at <a href="mailto:mrandall@civilworksne.com">mrandall@civilworksne.com</a> if you have any questions regarding this matter.

Very truly yours,

CIVILWORKS NEW ENGLAND

Matthew M. Randall, P.E.

Enclosures cc: File

# SHORELAND DEVELOPMENT PLAN APPLICATION



# TOWN OF KITTERY

# Planning & Development Department

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

PROPERTY	Physical Address	9 Lawrence Lane, Kittery Point, ME				
DESCRIPTION	Base Zone	R-KPV Overlay Zone (s)		Shoreland (250')		
	Name	William Dean Howells (603)-430-9004 (Auger Building Co.) ben@augerbuildingcompany.com		Mailing Address	13 Lawrence Lane, Kittery Point Maine, 03905	
WNER NFORMATION	Phone					
	Email					
	Name	Matt Randall		Company	Civilworks NE	
GENT	Phone	603-749-0443		Mailing Address	PO Box 1166	
NFORMATION	Email	mrandall@civilworksne.com			Dover, NH 03821-1166	
	Fax	603-749-7348				
	Name	see Owner/Agent				
PPLICANT VFORMATION	Phone	-		Mailing Address		
	Email					
N 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	ir Sinala	-amily Hama	IOT WITH ON AVIATINA			
Propose	ed Use (descri	be in detail):	ot with an existing	g boathouse	and other site improvements	

****	hereaco <sub>y</sub>							
Z	Please describe any construction constraints (wetlands, shoreland overlay zone, flood plain, non-conformance,							
PROJECT	See attached narrative.							
I certify I I will not de Applican	have provided, to the best of my knowledge, information requested for this application that is true and correct and leviate from the Plan submitted without notifying the Planning and Development Department of any changes.							
Signature Date:	e: Mallier Conflois  Signature: Date:  Date:							
*Application	of Service Accounts: Fees to pay other direct costs necessary to complete the application process, not including on fees. Title 3, Chapter 3.3.							
151 450	MINIMUM PLAN SUBMITTAL REQUIREMENTS							
	Copies of this Application Form, all supporting documents, and the Development Plan and Vicinity Map 12 plan copies may be half-size (11"x17") and 3 must be full-size (24"x36") and Development Plan format and content:							
A) Paper	Size, no less than 11" X 17" or greater than 24" X 36"							
B) Plan S Under 10 + a	Scale r 10 acres: no greater than 1" = 30' acres: 1" = 50'							
Applic Name Parcel	Shoreland Development Plan cant's name and address of preparer of plan with professional information I's Kittery tax map identification (map – lot) in bottom right comer ty Map or aerial photo showing geographic features 5,000 feet around the site.							

Area for signature by Planning Board Chair and Date of Planning Board Approval Development Plan must include the following existing and proposed information: Existing: Proposed: (Plan must show the lightened existing topography under the proposed project plan for comparison.) Land Use Zones and boundaries Topographic map (optional) Recreation areas and open space Wetlands and flood plains Setback lines and building envelopes Water bodies and water courses Lot dimensions Parcel area Utilities (Sewer/septic, water, electric, phone) Lot dimensions Streets, driveways and rights-of-way Utilities (Sewer/septic, water, electric, phone) Structures
Floor area, volume, devegetated error, and building coverage Streets, driveways and rights-of-way Structures Distance from structure to water body and property lines Distance to: Floor area, volume, devegetated area, and building coverage Nearest driveways and intersection Nearest fire hydrant Nearest significant water body; ocean, wetland, stream

D) Signature Block

# Expansion/Construction Analysis within the Shoreland Overlay Zone<sup>1</sup> (see Table 16.9)

Size of water body or wetland: ☐<500 sf		sf-1 acre	■>1 acre
Structure distance from water	r body: _	feet	

STRUCTURE	Existing	Proposed	% Increase*	
SF (Area)	471 sf	120 sf	25 %	
CF (Volume)	n/a of	n/a of	N/A %	
Construction:	New:	Value:		
	Maintenance	\$		
*Total increase in area	a and/or volume may	not exceed 30% fo	or any new constructi	on since 1/1/1989.

PARCEL DE-VEGETATION	% All	owed*	Existing SF	Proposed SF	% Proposed*		
Lot Size (sf) 42,931(sf) Shoreland)	20	%	5224 sf	<b>5444</b> sf	12.7 %		
*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) +/- 81,080	20	%	3828 sf	3948 sf	4.9 %	
*See underlying zone standards for building coverage percent allowed.						

<sup>&</sup>lt;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.

**©**Eastern Bank

Auger Building Company, Inc. 255 Portsmouth Avenue Greenland, NH 03840

10/1/2018

PAY TO THE ORDER OF

Town of Kittery

\*\*200.00

Two Hundred and 00/100

15332

Town of Kittery

MEMO



1010047,701

Auger Building Company, Inc.

Town of Kittery

10/1/2018

/ 1215

**Permits** 

200.00

15332

Eastern Checking - 77

200.00

# **CIVILWORKS NEW ENGLAND**

181 WATSON ROAD P.O. BOX 1166 DOVER, NH 03821-1166 PHONE; 603.749.0443 FAX: 603.749.7348

# Letter of Authorization

Re:

Tax Map 18 Lot 31A

9 Lawrence Lane

Kittery Point, ME 03905

To Whom it May Concern:

I, Gurdon H. Metz, the applicant of the above referenced lot, do hereby authorize Civilworks New England of Dover, NH, to present plans and pursue permits for the boathouse repair within the above referenced lot on my behalf.

Sincerely,

Gurdon H. Metz

| Mark | Water

| Bate | S

## KNOW ALL MEN BY THESE PRESENTS

THAT I, William W. Howells, of 11 Lawrence Lane, Kittery Point, Maine, for consideration paid, grant a 2/3 undivided interest to William Dean Howells of 13 Lawrence Lane, Kittery Point, Maine, and Gurdon H. Metz of 580 Park Avenue, New York City, New York, as tenants in common and not as joint tenants, with WARRANTY COVENANTS, the land in the Town of Kittery, County of York, and State of Maine, viz:

A certain lot or parcel of land and being "Parcel B" on a plan entitled, "Division of Land and Lot Line Revision Plan for William White Howells, Il Lawrence Lane, Kittery Point, Maine 03905", prepared by Easterly Surveying, scale 1" = 30', dated July 31, 1997, to be recorded at the York County Registry of Deed of even or near date herewith, said lot being more particularly bounded and described as follows:

Beginning at an Iron pipe on the easterly sideline of Lawrence Lane, thence running North 02° 41' 07" West by and along the said easterly sideline of Lawrence Lane a distance of one hundred twenty-five and sixty-seven hundredths (125.67) feet to a rebar with cap to be set and, by way of reference, at a point which is South 02° 41' 07" East a distance of one hundred ninety-one and fifty-two hundredths (191.52) feet from a granite bound at the intersection of the easterly sideline of Lawrence Lane and the southerly sideline of Pepperell Road, so-called (also known as Route 103); thence turning and running South 82° 44' 00" East by and along land retained by William W. Howells a distance of one hundred eighteen and twenty-six hundredths (118.26) feet to a rebar with cap to be set; thence turning and running North 69° 18' 17" East by and along land retained by William W. Howells a distance of one hundred forty-six and thirty-five hundredths (146.35) feet to a rebar with cap to be set; thence turning and running South 09° 37' 55" East by and along land of Harvard College President & Fellows/Harvard Real Estate Inc. a distance of forty and zero hundredths (40.00) feet to a drill hole; thence continuing on the same course by and along land of Harvard College President & Fellows/Harvard Real Estate Inc. a distance of forty-three and sixty-two hundredths (43.62) feet to a drill hole; thence turning and running South 10° 32' 50" East by and along land of Harvard College President & Fellows/Harvard Real Estate Inc. a distance of ninety-four and ninety hundredths (94.90) feet to an iron pipe; thence turning and running South 40° 15' 03" East by and along land now or formerly of Harvard College President & Fellows/Harvard Real Estate Inc. a distance of fifty-eight and eighty-seven hundredths (58.87) feet to a rebar with cap to be set at a point which is South 47° 59' 04" East a distance of six and ninety-two hundredths (6.92) feet from an iron pipe; thence turning and running North 80° 39' 44" West by and along land now or formerly of the Warehouse Point Trust a distance of one hundred sixty-one and eighty-eight hundredths (161.88) feet to a rebar with cap to be set; thence turning and

# BK9162 PG197

running North 34° 00' 00" West by and along land now or formerly of the Warehouse Point Trust a distance of thirty and ninety-two hundredths (30.92) feet to an iron pipe found at the corner of an abandoned lot line; thence continuing along the same course a distance of eight and fifty-eight hundredths (8.58) feet by and along land of the Warehouse Point Trust to a rebar with cap to be set; thence turning and running North 81° 21' 00" West by and along land of the Warehouse Point Trust a distance of one hundred and zero hundredths (100.00) feet to a rebar with cap to be set southwest of a twelve (12") inch maple; thence turning and running South 41° 55' 12" West by and along land now or formerly of the Warehouse Point Trust a distance of fifty-three and seventy-three hundredths (53:73) feet to a point, which point is South 09° 14' 18" West a distance of two and twelve hundredths (2.12) feet from a hub and tack; thence turning and running North 02° 41' 07" West by and along the easterly sideline of Lawrence Lane a distance of twenty-four and thirty-three hundredths (24.33) feet to an iron pipe at the point and place of beginning. Containing 40,000 square feet (.92 acres).

Excepting and reserving to the Grantor permission to flow septic to a portion of the septic disposal area of the Grantor which is on the land conveyed herein, said disposal area is approximately 21' x 60' feet in total dimension and is located on the northerly boundary line of Parcel B and the southerly boundary line of Parcel A as shown on said plan on the Lawrence Lane side of said properties. Said right to flow also includes the right to maintain and repair said disposal area and to cross the property of the Grantees to maintain and repair should access over the land of Grantees prove more convenient than access over the land of Grantor, subject, however, to the requirement that should the Grantees' property be used for access Grantor shall to restore and repair the land of the Grantees if damage is caused by use of said access.

Meaning and intending to convey a portion only of the premises conveyed to William W. Howells by Deed of Sale by Trustee from Bruce A. Whitney, Trustee by virtue of a Final Order in Re Petition of Mary M. Decatur, dated January 8, 1997, and recorded at the York County Registry of Deeds in Book 8125, Page 177. Reference also deed of William Dean Howells and Gurdon H. Metz (f/k/a Muriel H. Metz) as Trustees of the Warehouse Point Qualified Personal Residence Trust #1 and as Trustees of the Warehouse Point Qualified Personal Residence Trust #2, recorded at the York County Registry of Deeds of even or near date herewith.

WITNESS my hand and seal this 2nd day of November, 1998.

Witness

William W. 1 Houses

William W. Howells

# BK9162 PG198

STATE OF MAINE COUNTY OF YORK

DATED: November 2, 1998

Then personally appeared the above-named William W. Howells and acknowledged the foregoing instrument to be his free act and deed.

Before me,

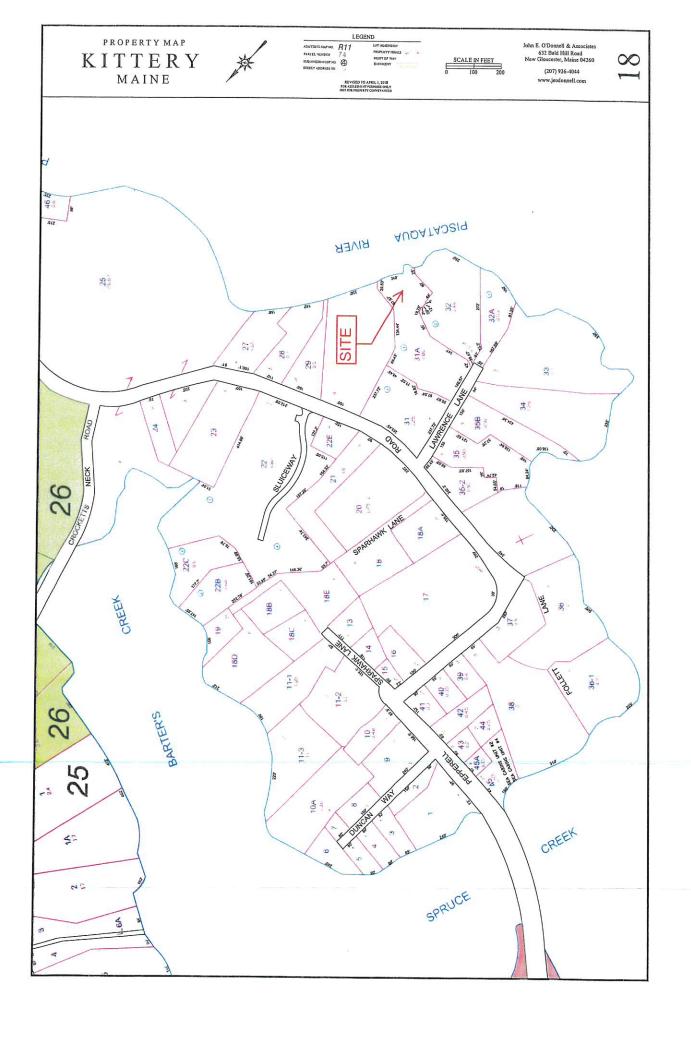
Notary Public

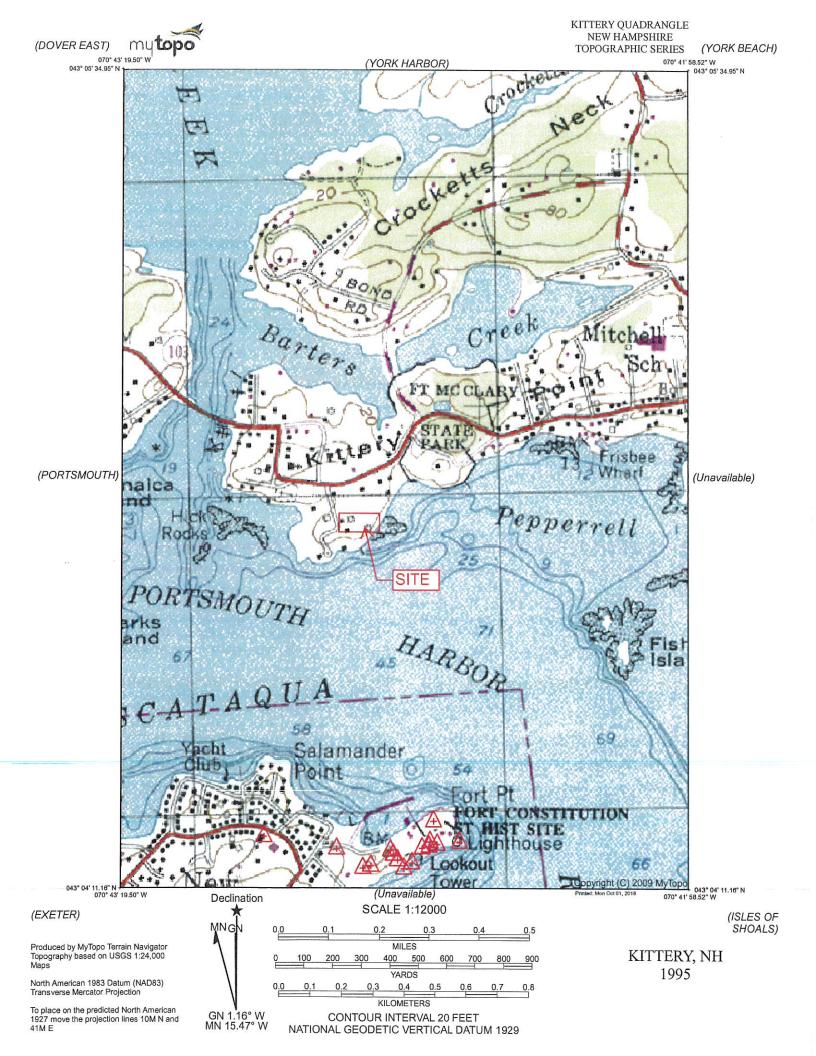
Vicia J. C'Brien Notary Public My Comm Expires 1/27/00

RECEIVED YORK S.S. 1993 NOV 24 P 12: 17

ATTEST : Jais M. Much

1 20





# PROJECT NARRATIVE HOWELLS' RESIDENCE BOATHOUSE REPAIR SHORELAND PERMIT

for

William Dean Howells
9 Lawrence Lane, Kittery Point, Maine
Tax Map 18, Lot 31A

### **PROJECT OVERVIEW**

This project consists of the expansion and repair of a boathouse and foundation which was damaged during a storm in the spring of 2018. The parcel, as shown on Tax Map 18 as Lot 31A is located within the Residential-Kittery Point Village and Shoreland Zones. This Shoreland Permit is requesting approval pursuant to Chapter 16.3.2.17 for work within the 250' Shoreland Area adjacent to the Piscataqua River. The proposed repair and addition will be located +/-32.7' and +/-33.2', respectively, from the upland edge of a coastal wetland as defined in the Kittery Town Code.

- Repair of a damaged boathouse and foundation including the expansion of less than 30% in the Shoreland Zone
- Minor changes of the path to the boathouse including the installation of stepping stones.

### PROJECT LOCATION AND SITE CHARACTERISTICS

The project site consists of a single 1.86 ac. parcel of land shown on Tax Map 18 as Lot 31A. The site contains a single family house, barn, greenhouse, pool, and the damaged boathouse. The parcel has an existing building coverage of 4.7%, and with the 120 sf expansion of the boathouse the new building coverage will be 4.8%. This is well below the 20% zoning requirement for building coverage and within the 30% expansion allowance for non-conforming structures within the shoreland zone. The site currently has +/- 12.1% devegetated area within the 250' shoreland zone and after the boathouse expansion the devegetated area will be 12.7%. The expansion portion of the boathouse will be on piers as well as supported by the existing stone retaining wall. The expansion will not be closer to the resource than the original boathouse and include a roof. The overall height of the replaced boathouse will be less than 20'.

### LEAST PRACTICABLE ALTERNATIVE

The location of the existing boathouse is in the least impacting, practicable area and it will be in the same footprint it has been in for approximately one century. The boathouse is nestled within ledge formations and can not be moved further from the resource. The boathouse is currently located +/- 32.7' from the upland edge of the coastal wetland, the Piscataqua River. The expansion will not be closer to the resource, and this activity has no practicable alternative due to the reuse of the existing footprint and location of the existing foundation of the boathouse.



