

1 **CALL TO ORDER**

2

3 **ROLL CALL**

4

5 **Present:** Drew Fitch, Member; Ronald Ledgett, Member; Russel White, Member; Mark Alesse,  
6 Member; Karen Kalmar, Vice Chair; and Chairperson Grinnell

7

8 **Absent:** Dutch Dunkelberger, Member

9

10 **Staff:** Jamie Steffen, Town Planner;

11

12 **PLEDGE OF ALLEGIANCE**

13

14 **APPROVAL OF MINUTES – August 9, 2018**

15

16 **Moved by Vice Chair Kalmar, seconded by Mr. Ledgett**

17

18 **Motion carried**

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20 **5-0-0**

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22 **APPROVAL OF SITE WALK MINUTES - August 28, 2018**

23

24 **Moved by Vice Chair Kalmar, seconded by Mr. Fitch**

25

26 **Motion carried**

27

28 **6-0-0**

29

30 **PUBLIC COMMENTS - None**

31

32 **ITEM #1 – Kittery Medical Office Building – Parking – Major Modification to an Approved  
33 Site Plan**

34 Action: Accept or deny application. Approve or deny plan. Owner/applicant, York Hospital  
35 request consideration to add a call center in 3960 square feet of existing space on the third  
36 floor of the medical office building located at 35 Walker Street (Tax Map 4, Lot 168) in the  
37 Business – Local 1 (B-L1) Zone. Agent is Ken Wood, Attar Engineering

38

39 Represented by: Michael Sudak with Roger Cross of York Hospital. Mr. Sudak gave a brief  
40 overview of the project. The existing Kittery Medical Office Building is proposing to develop  
41 just under 4,000 square feet on the third floor for a call center. The parking will require (18)  
42 spaces which are proposed to be provided off site by means of a lease with Kittery Physical  
43 Therapy/Oncology on the Route One Bypass. It was explained that the lease currently  
44 contains fifty (50) parking spaces which has a surplus of twenty six (26) for this development.  
45 The project required a miscellaneous variation which was granted by the Board of Appeals on  
46 June 26, 2018.

47  
48 After question from Mr. Ledgett, Mr. Cross stated that the hours of operation for the call center  
49 would be 7am-7pm Mon- Fri. They will operate shuttle service for the parking arrangement and  
50 the Facilities and Environmental Services department would handle the enforcement to  
51 prevent an employee from parking in public parking spaces. He explained that York Hospital  
52 already does that with employees in their main hospital. Mr. Cross further explained that for the  
53 Board of Appeals hearing they stated as long as they have the current lease they will be able  
54 to utilize the third floor. If York Hospital terminates lease by any means they will no longer be  
55 able to use the third floor. Any changes to the arrangement that affects the required parking  
56 would require the applicant to come back to the Planning Board.

57  
58 Mr. Ledgett asked how the Town would track the status of the lease and make sure that public  
59 spaces aren't being utilized by the use. The Board discussed a potential condition of approval  
60 that would require York Hospital to check with the Town once a year to confirm that they have  
61 the lease arrangement still in place.

62  
63 Mr. White commented that he thought the approval could be conditioned upon the hospital  
64 maintaining the lease arrangement for the lot or if that location changes they would be required  
65 to provide the Town with the updated information. There was further discussion by the Board  
66 about how to enforce any approval and what would suffice for periodic notification of the status  
67 of the lease.

68  
69 The Board discussed a condition of approval that would involve instructing staff to develop  
70 language that requires the applicant submit proof that they still have adequate parking in  
71 accordance with the Town approval in whatever appropriate interval it is. Mr. Steffen noted  
72 wording on the site plan that references that eighteen (18) spaces are located at 75 US Route  
73 1 Bypass. The Board discussed broadening that language similar to how Mr. White had stated  
74 earlier. The stated it didn't foresee any issues approving the modification tonight as long as it  
75 was conditioned upon adequate confirmation that the parking will be sufficient for however  
76 many years that the lease takes place. Chair Grinnell stated that the planner will draft the  
77 condition of approval wording which will be added to the plan which she would then sign.

78

79 There was further discussion about enforcement. Mr. Cross responded that it was in their best  
80 interest to monitor the parking lot as they have patients coming in regularly. York Hospital  
81 does have cameras and staff that monitors the parking lots from first thing in the morning.

82

83 **Vice Chair Kalmar made a motion to accept and approve a major modification to an**  
84 **approved site plan application dated August 23, 2018 from Owner/Applicant York**  
85 **Hospital regarding their request to add a call center in 3960 square feet of existing**  
86 **space on the third floor of the medical office building located at 35 Walker Street (Tax**  
87 **Map 4, Lot 168) in the Business – Local 1 (B-L1).**

88

89 **Seconded by Mr. White.**

90

91 **Motion carried**

92

93 **5-1-0.**

94

95 **FINDINGS OF FACTS**

96

97 **WHEREAS:** Owner/Applicant York Hospital request consideration to have a call center in 3960  
98 square feet of existing space on the third floor of the medical office building located at 35  
99 Walker Street (Tax Map 4, Lot 168) in the Business – Local 1 (B-L1) Zone Agent is Ken Wood,  
100 Attar Engineering.

101

102 Pursuant to the plan review meetings conducted by the Town Planning Board as noted; And  
103 pursuant to the Application and Plan and other documents considered to be apart of the plan  
104 review decision by the Town Planning Board in this Finding of Fact consisting of the following  
105 (hereinafter the “Plan”):

106

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

110

111 **FINDINGS OF FACT**

112

113 **A. Development Conforms to Local Ordinances,**

114 **Finding:** The Planning Board has approved a Major Modification to an Approved Site Plan that  
115 allows remote parking and shuttle services in lieu of 18 additional onsite parking spaces. With

116 modification, The Plan complies with Town parking standards. The approved Plan is otherwise  
117 unchanged.

118

119 **Conclusion:** This standard appears to be met

120

121 **Vote of 5 in favor 1 against 0 abstaining**

122

123 **B. Freshwater Wetlands Identified**

124 **C. River, Stream or Brook Identified**

125 **D. Water Supply Sufficient**

126 **E. Municipal Water Supply Available**

127 **F. Sewage Disposal Adequate**

128 **G. Municipal Solid Waste Disposal; Available;**

129 **H. Water Body Quality and Shoreland Protected;**

130 **I. Groundwater Protected;**

131 **J. Flood Areas Identified and Development Conditioned;**

132 **K. Stormwater Managed;**

133 **L. Erosion Controlled;**

134 **N. Water and Air Pollution Minimized;**

135 **O. Aesthetic, Cultural and Natural Values Protected;**

136

137 **The Board finds that the standards B-O, excepting M are not applicable to the proposed**  
138 **modification.**

139

140 **Vote of 6 in favor 0 against 0 abstaining**

141

142 **M. Traffic Managed.**

143

144 The proposed development does not require a traffic movement permit as it does not create an  
145 additional 100 vehicle trips during peak traffic hours.

146

147 **Findings:** The proposed use requires an additional eighteen (18) parking spaces which cannot  
148 be provided on-site. York Hospital currently leases fifty (50) parking spaces at their Kittery  
149 Physical Therapy/Oncology facility at 75 US Route 1 By- Pass. The facility there requires  
150 twenty- four (24) parking spaces which leaves a surplus of twenty- six (26) spaces that can be  
151 utilized by the call center. York Hospital will provide a shuttle service to transport employees  
152 from one location to another.

153

154 **Conclusion:** This standard appears to be met.

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**Vote of 4 in favor 2 against 0 abstaining**

**P. Developer Financially and Technically Capable**

The Applicant appears to meet this standard.

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

**Waivers:** None

**Conditionals of Approval:**

1. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board, or Peer Review Engineer, and submit for staff review prior to presentation of final Mylar. *{and other conditions as presented in the Findings of Fact dated 9/13/2018}*
2. 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.
3. One (1) Mylar copy of the final plan 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 original must be submitted to the Town Planning Department.

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.

**NOW THEREFORE** the Kittery Planning Board adopts each of the forgoing Findings of Fact and based on these Findings determines the proposed Development will have no significant detrimental impact, and the Kittery Planning Board hereby grants final approval for the Development at the above referenced property, including any waivers granted or conditions as noted

The Planning Board authorizes the Planning Board Chair to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval.

194 There was further discussion by the Board about the proposed condition of approval. Mr.  
195 Ledgett stated that he was not comfortable leaving it ambiguous. There was further discussion  
196 about enforcement and the measures that the hospital would take on their end to monitor the  
197 parking. Mr. Cross stated that they will be checking license plate numbers as they do at the  
198 other facility.

199 Mr. Ledgett discussed an annual tickler that the Town could utilize to keep track of the  
200 approval. Chair Grinnell commented that she would be acting on behalf of the Board in  
201 approving the wording the staff develops for the condition of approval and suggested that Mr.  
202 Ledgett also approved the draft wording.

203

204

**Vote of 4 in favor 2 against 0 abstaining**

205

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

210

211 **ITEM #2 – Huntington Run - Cluster Subdivision Preliminary Plan Approval Amendment**  
212 Action: Approve or deny preliminary plan amendment. Owner, Landmark Properties, LTD. and  
213 Kingsbury and Veronica Bragdon, and applicant, Chinburg Builders, Inc., request consideration  
214 of a 20-lot cluster subdivision on 86.6 +/- acres located on Betty Welch Road (Tax Map 66 Lots  
215 2A, 8 & 8A) in the Residential Rural Zone (R-RL) and a portion located in the Shoreland  
216 Overlay (SH-250'-OZ) Zone. Agent is Jeff Clifford, P.E., Altus Engineering.

217

218 Jeff Clifford represented the applicants. He discussed that there has been a lot of back and  
219 forth about the road with the proposed development. He noted that they were getting close  
220 with MDEP approval of the project. He discussed previous actions by the Board and town with  
221 regard to the road standards. He explained that the road is now shown based upon the  
222 direction they got in the summer of 2017 where it was discussed to have twenty (20) feet of  
223 pavement and two (2) foot of paved shoulders on both sides. He noted that at the August 24,  
224 2017 meeting they preferred it to be a public road with public road standards, but stated that  
225 DPW does not want it to be a public road.

226

227 He discussed going back to the 20 foot wide road with 4 foot gravel shoulders. He noted that it  
228 was the seventh cluster subdivision he has worked on and all six of the other ones that were  
229 approved had 20 foot paved travel ways with 2 foot gravel shoulders.

230

231 He discussed the current standards and noted his discussions with both interim planner and  
232 new planner about the 20 feet of pavement with 2 feet of paved shoulder on one side and 8

233 feet on the other. He noted that 30 feet was a lot of pavement for a rural subdivision and stated  
234 that he didn't think anybody wanted that.

235  
236 He provided the Board with handouts. He discussed the comparison charts handout and the  
237 changes made over the years. He discussed the 2017 standards which are 20 feet by 5 feet of  
238 side walk by 2 feet on the walk side and 8 feet on the opposite side for 30- feet all together.  
239 He compared this to the 2002 standard that had a 50 foot right of way with 20 feet of pavement  
240 and the Planning Board would determine the rest.

241  
242 He discussed real world examples of what we have for roads that were shown on the  
243 handouts. Whipple Road on the west end is 30 feet of pavement plus the sidewalk. Shapleigh  
244 Road is 27 feet of pavement, compared to Lewis Road which is 19 feet of pavement, along  
245 with Norton Road and Miller Road. He noted other 20 foot wide cluster subdivision roads.

246  
247 He stated how they would like to maintain the character of Kittery with the proposed road. He  
248 discussed the proposed wider shoulders and are asking for 20 feet of pavement with 4 foot  
249 gravel shoulders within a 60 foot wide right of way. He noted the utilities will be underground  
250 and the Board has waived the requirement for sidewalk.

251  
252 Vice Chair Kalmar commented that she was conflicted. She noted it was the Board's job to  
253 utilize the existing standards. She commented about the Board granting the waiver for  
254 sidewalks because there were not connecting facilities. There was discussion amongst the  
255 Board regarding the road standards. Mr. Steffen noted the preliminary plan approval back in  
256 August of 2017 referred to an email from CMA Engineers, the Town's consultant that spoke to  
257 the road standards. He read the email which stated the preferred minimum section is 10 feet  
258 travelled way (20 feet total) plus 2 foot paved shoulders each side for a total of 24 feet of  
259 paved width with 2 foot gravel shoulders beyond the paved shoulders. This would result in 28  
260 feet width of gravel section. The current design has 20 feet paved with 2 foot gravel shoulder  
261 on one side and 7 foot gravel on the other for 29 feet. The consensus was that there needs to  
262 be a 2 foot paved shoulder beyond the 10 foot paved travel way on both sides. A 2 foot gravel  
263 shoulder is necessary beyond any pavement.

264  
265 Mr. Clifford responded that since that time DPW didn't have as much to say about private  
266 roads. He continued to discuss past practice and the Board approving 20 foot wide roads.  
267 Vice Chair Kalmar commented that there was no merit in past decisions and past precedence.  
268 She explained that there was no road where they are proposing and the Board is required to  
269 follow the unified code. Mr. White commented that some of these issues can be addressed  
270 during the recodification process and discussed the lack of a town-wide sidewalk plan. Mr.  
271 Steffen asked if it mattered that they were proposing a private road. The Board pointed out

272 that the standards were based upon ADT and were same for private roads. After more  
273 discussion the Chair Grinnell polled the Board and the consensus was that the applicant must  
274 follow the code.

275

276 **Motion to continue to get an interpretation of the code - date to be determined.**

277

278 **Motion withdrawn.**

279

280 **Motion to deny the preliminary plan approval amendment by Mr. White, seconded by**  
281 **Vice Chair Kalmar.**

282

283 **Motion carried**

284

285 **6-0-0.**

286

287 **ITEM #3 – Tidewater Way – Street Naming Application**

288 Action: Accept or deny application. Grant or deny approval of street name. Owner/applicant

289 John & Marsha Shaw request consideration of naming an unnamed private right-of-way  
290 servicing lots currently addressed as 28-34 Haley Road (Tax Map 47 Lots 18-1-2, 18-3, 18-4-  
291 1, and 18-4-2) to Tidewater Way.

292

293 **Vice Chair Kalmar moved to accept and approve the Street Naming Application dated**  
294 **August 21, 2018 from John & Marsha Shaw to name an unnamed private right-of-way**  
295 **servicing lots currently addressed as 28-34 Haley Road (Tax Map 47 Lots 18-1-2, 18-3,**  
296 **18-4-1, and 18-4-2) as Tidewater Way.**

297 **Seconded by Mr. Ledgett.**

298

299 **Mr. Steffen noted that the addressing should be done through the Assessing**  
300 **Department.**

301

302 **Motion carried**

303

304 **6-0-0.**

305

306 **ITEM #4 – Board Member Items**

307 A. York River Watershed Stewardship Plan - Wild and Scenic Designation

308 To be placed on September 27<sup>th</sup> agenda.

309 B. Also for the September 27<sup>th</sup> meeting an update was requested from Mr. White and Mr.

310 Fitch on the Inclusionary Housing Working Group efforts. Mr. White discussed recent



311 meetings of the group. He mentioned the planned charrette in October focusing on the  
312 potential redevelopment of a parcel for affordable housing. There will be a public  
313 process in October with more details to follow. Inclusionary Housing meeting discussed  
314 what inclusionary housing means. Noted it was not just for low income, needy people.  
315 Normal working people need reasonably priced housing too. He discussed the different  
316 categories of housing and finding the right formula.

317

318 Chair Grinnell mentioned the Town Council public hearing on September 24<sup>th</sup> for the proposed  
319 Neighborhood Mixed Use zone. She noted that the 70 foot height limit changed to 50 feet in  
320 text amendment only. It was noted as a matter of courtesy the Board should be there.

321

322 **OLD BUSINESS**

323

324 **ITEM #5 – Board Member Items / Discussion - None**

325

326 **ITEM #6 – Town Planner/Director of Planning & Development Items - None**

327

328 **Adjournment**

329

330 **Moved by Mr. Alesse, seconded by Mr. Ledgett.**

331

332 **Motion carried 6-0-0.**

333

334 Board meeting of September 13, 2018 adjourned at 7:13 p.m.

335

336 Submitted by Jordan Williams, Minute Recorder, on October 4, 2018.

337

338 **Disclaimer:** The following minutes constitute the author's understanding of the meeting.

339 Whilst every effort has been made to ensure the accuracy of the information, the minutes are  
340 not intended as a verbatim transcript of comments at the meeting, but a summary of the  
341 discussion and actions that took place. For complete details, please refer to the video of the  
342 meeting on the Town of Kittery website at [http://www.townhallstreams.com/locations/kittery-](http://www.townhallstreams.com/locations/kittery-maine)  
343 [maine](http://www.townhallstreams.com/locations/kittery-maine).

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