

CALL TO ORDER

ROLL CALL

Present: Steve Bellantone, Member; Drew Fitch, Member; Ron Ledgett, Member; Russell White, Member; Mark Alesse, Member; Karen Kalmar, Vice Chair and Dutch Dunkelberger, Chair

Absent: None

Staff: Jamie Steffen, Town Planner; Adam Causey, Director of Planning and Development; Jessa Kellogg, Shoreland Resource Officer / Stormwater Coordinator

Advisory: Earldean Wells, Conservation Commission

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – March 14, 2019

Line 438 be removed as Ms. Wells did not recall making the comment. Vice Chair Kalmar moved to approve the minutes as amended. Seconded by Mr. Ledgett.

The motion carried 6-0-1.

APPROVAL OF MINUTES – March 28, 2019

Lines 104 – 108, Vice Chair Kalmar requested that it be reworded and she read aloud her wording. Vice Chair Kalmar moved to accept the minutes as amended. Seconded by Mr. White.

The motion carried 5-0-2.

PUBLIC COMMENT

Chair Dunkelberger opened the public comment segment of the meeting. There being no comments, Chair Dunkelberger closed the public comment segment.

PUBLIC HEARING

ITEM 1 – Land Use Zoning Map Amendment – Mixed Use – Neighborhood

(MU-N)

The Kittery Planning Board will consider a proposed Land Use Zoning Map amendment to change the Business – Park B-PK zone designation to Mixed Use – Neighborhood (MU-N).

Public Hearing, Vote to Recommend. Take public comment. Review and discuss. Vote to recommend to the Town Council.

It was noted that the proposed amendment was just to change the designation of the former Business Park (B-PK) Zone to the Mixed-Use Neighborhood (MU-N) Zone.

Mr. Steffen noted that a few corrections will also be made to fix typos as the map has not been update since 2010.

Chair Dunkelberger then closed the Public Hearing.

Vice Chair Kalmar moved to approve the Land Use Zoning Map Amendment to change the B-PK Zone designation to MU-N and to recommend adoption by the Town Council. Seconded by Mr. Ledgett.

The motion carried 7-0-0.

OLD BUSINESS

ITEM 2 - 51 Wilson Road – Minor Subdivision Preliminary Plan Review

Action: Accept or deny application; Schedule Public Hearing. Owner Kerry A. Major and applicant Paul Hollis request consideration of a minor subdivision to construct a duplex on a 6.38-acre parcel located at 51 Wilson Road, (Tax Map 54 Lot 20) in the Residential-Rural (R-RL) and Shoreland Overlay (OZ-SL-250') Zones.

Chair Dunkelberger noted that the applicant has chosen to withdraw the application.

After question from Mr. Ledgett, Mr. Causey explained the situation with the request. The Department will not approve any request for a duplex at this time. The construction of a single-family residence of the lot does not require a subdivision approval and the Code Office can issue a building permit for that use. Mr. Steffen read the Code Enforcement Officer's determination on the proposed construction of the dwelling unit.

ITEM 3 - 12 Haley Road – Shoreland Development Plan Review

Action: Accept or deny application. Approve or deny plan. Owner/applicant

Kimberly A. Lingard requests consideration to reconstruct an existing single family residence and shed on a 3,817 sf parcel located at 12 Haley Road (Tax Map 47 Lot 21) in the Residential - Rural (R-RL) Shoreland Overlay (OZ-SL-250' & OZ-SL-75') and Resource Protection (OZ-SL-75') Zones. Agent Ryan McCarthy, P.E., P.L.S, Tidewater Engineering & Surveying, Inc.

Ryan McCarthy, Tidewater Engineering & Surveying, Inc., gave an update on the application. He highlighted the changes made since the last meeting.

Mr. Ledgett noted his concerns based upon previous reviews of other developments that there cannot be any expansion of the height of the structure within the 25' setback. There was discussion amongst the Board and staff regarding interpretation of the code in this regard. The Board and the Planner discussed the definition in the code of expansion of a structure. Ms. Kellogg explained that she agreed with the planner's interpretation and noted that in the other shoreland development cases that were brought up there was not a reduction in the area of the structures within the portion within 25'.

Chair Dunkelberger asked the Board if wanted a public hearing on the application. The Board determined that a public hearing was not necessary.

Mr. White moved to approve the Shoreland Development Plan application, dated April 18, 2019, revised May 16, 2019, from owner/applicant Kimberly A. Lingard to reconstruct an existing single family residence and shed on a 3,817 sf parcel located at 12 Haley Road (Tax Map 47 Lot 21) in the Residential - Rural (R-RL) Shoreland Overlay (OZ-SL-250' & OZ-SL-75') and Resource Protection (OZ-RP) Zones. Seconded by Vice Chair Kalmar.

The motion carried 7-0-0.

FINDINGS OF FACT

The Planning Board made the following factual findings and conclusions:

Section 16.3.2.17.D Shoreland Overlay Zone

(1)(d). The total footprint of areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development.

Finding: The existing devegetated and impervious surfaces area is 28.2% of the lot area. As outlined on the Shoreland Development Plan with the proposed improvements the devegetated area will be slightly reduced to 28.0 %.

Conclusion: The standard appears to have been met.

Vote of 7 in favor 0 against 0 abstaining

Section 16.7.3.1 Prohibitions and Allowances

A. Except as otherwise provided in this Article, a nonconforming condition must not be permitted to become more nonconforming.

Finding: This is an existing, nonconforming lot with an existing single family dwelling structure that is nonconforming to the 75-foot setback from the stream and front yard setback. A dwelling is a special exception use in the Shoreland Overlay Zone.

The proposed reconstruction does not increase the nonconformity as permitted in 16.7.3.3.B. Nonconforming structure repair and/or expansion.

Conclusion: This requirement appears to be met.

Vote of 7 in favor 0 against 0 abstaining

Section 16.7.3.3 Nonconforming Structures

16.7.3.3.B Nonconforming structure repair and/or expansion

Finding: The proposed development increases the nonconformity as permitted in 16.7.3.3.C. (1) and 16.7.3.3 B. (3) (e) [2] [5] [a]. The footprint of the structures will not increase in size. There will be no increase in the area and volume of the structures within 25 feet of the wetland.

Conclusion: This requirement appears to be met.

Vote of 7 in favor 0 against 0 abstaining

Section 16.6.6. Basis for Decision

16.6.6.A.2 In hearing appeals/requests under this Section, the Board of Appeals [note: Planning Board is also subject to this section per 16.7.3.3.B.(1) above] must use the following criteria as the basis of a decision:

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.

Finding: The proposed development does not pose a concern.

Conclusion: The requirement appears to be met.

Vote of 7 in favor 0 against 0 abstaining

Section 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:

Finding: The Planning Board made a positive finding on Criteria 1-10 with all of the criteria appearing to be met.

Vote of 7 in favor 0 against 0 abstaining

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.

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Vote of 7 in favor 0 against 0 abstaining

NEW BUSINESS

ITEM 4 – Draft Amendments to Shoreland Zoning

Discussion: Proposed changes to Title 16.2.2, 16.3.2.17, and 16.7.3.3

Ms. Kellogg gave the Board an overview of the proposed amendments. She explained that the amendments are an effort to better clarify the permitting authority for review and approval of specific projects.

Board members had specific questions on the proposed changes:

Ms. Kellogg clarified the term Base Zone;

It was suggested that the order of the first two paragraphs in Section 16.7.3.3 be reversed;

Ms. Kellogg explained the 4th amendment that was brought to the Board;

Section 16.7.3.3 (e) [4] seems to contradict the previous paragraph on the 25' expansion. Ms. Kellogg explained the difference; and,

There was comment expressed about the attempt by the State to deal with sea level rise relative to redevelopment with the 25' setback.

Ms. Kellogg informed the Board that it would need to schedule a public hearing on the proposed amendments.

Vice Chair Kalmar moved to schedule a public hearing on the proposed changes to Title 16.2.2, 16.3.2.17, 16.7.3.3 and 16.8.28.1 for the June 27th meeting of the Planning Board. Seconded by Mr. Ledgett.

The motion carried 7-0-0.

ITEM 5 – MS4 – General Permit for Stormwater Discharges

Presentation: Jessa Kellogg, Kittery Stormwater Coordinator

Ms. Kellogg presented her annual overview of the MS 4 permit status for the Town of Kittery.

There were no questions from the Board and the Board thanked Ms. Kellogg for her efforts in implementing the MS 4 General Permit requirements.

ITEM 6 – Rice Library Building Committee – Library Expansion Update

Presentation: Adam Causey, Planning & Development Director

Mr. Causey gave an update on the library expansion project. He noted that the Rice Library Building Committee had chosen architects to design the proposed library expansion. He noted that on July 1 the Library would be an official Town department.

He discussed the chosen concept plan and the next steps in the expansion project.

ITEM 7 – Town Planner / Director of Planning & Development Items

- A. Mr. Causey gave an update on the Title 16 Recodification effort. He noted that the next meeting of the Kittery Land Issues Committee would be on June 17th.
- B. He noted that the Kittery Land Issues Committee would be meeting on June 3rd to start considering the Short Term Rentals (STR) issue. He also noted that staff has been compiling information on the issue which will also be provided to the Planning Board.
- C. He provided an update on the Joint Land Use Study undertaken by the Shipyard. He noted an upcoming Open House on Wednesday, June 5th from 4:30 – 7:30 pm at the Kittery Community Center.

D. It was also noted that there would be a Joint Workshop with the Kittery Town Council on June 10th at 5 pm to discuss the proposed ADU ordinance.

Mr. Fitch inquired about the parking management plan for 88 Pepperrell Road redevelopment. He noted that he had not seen a sign yet in Pepperrell Cove instructing customers to park in the lot across the street for the businesses. Mr. Causey addressed his concern and gave the Board a brief summary of the other elements in the plan.

Mr. Alesse moved to adjourn the meeting.
Mr. White seconded the motion.

The motion carried 7-0-0.

The Kittery Planning Board meeting of April 25, 2019 was adjourned at 7:10 p.m.

Submitted by Jamie Steffen, Town Planner, on July 18, 2019.

Disclaimer: The following minutes constitute the author's understanding of the meeting. Whilst every effort has been made to ensure the accuracy of the information, the minutes are not intended as a verbatim transcript of comments at the meeting, but a summary of the discussion and actions that took place. For complete details, please refer to the video of the meeting on the Town of Kittery website at <http://www.townhallstreams.com/locations/kittery-maine>.