

**CALL TO ORDER**

**ROLL CALL**

Present: Steve Bellantone, Member; Drew Fitch, Member, Ronald Ledgett, Member; Russell White, Member, Mark Alesse, Member; Karen Kalmar, Vice Chair, and Dutch Dunkelberger, Chair (arrived at 6:30 p.m.)

Absent: None

Staff: Jamie Steffen, Town Planner; Adam Causey, Director of Planning and Development

Advisory: Earledean Wells, Conservation Commission

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENTS**

Gavin McCurdy, 96 Goodwin Road spoke about his concerns with chloramine introduction into the Kittery water supply system.

**OLD BUSINESS**

**ITEM 1 – 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 on Wilson Road, (Tax Map 54 Lot 20) in the Residential-Rural (R-RL) and Shoreland Overlay (OZ-SL-250') Zones.

Mr. Hollis noted the site walk that was recently conducted by the Board and spoke to the concern raised about providing an area for a reserve septic system. He discussed relocation of the proposed building due to the concern about headlight shining into a neighboring property.

Vice Chair Kalmar stated it appeared that the Board did not have the complete Net Residential Acreage calculation for the proposed development. She discussed with Mr. Hollis the applicable soils deductions. She pointed out the need to also deduct the area within the 100 year flood zone. Mr. Hollis and the Board discussed the need for a

stormwater management study. Vice Chair Kalmar stated she was of the opinion that it was not a waivable item. After further discussion of the issue by the Board and the Planner, Mr. Hollis stated that he would agree to do a stormwater management study.

Mr. Steffen noted the Board's previous approval of the preliminary plan on December 13, 2018 and read the conditions of approval.

**Mr. Ledgett moved to continue the consideration of the minor subdivision preliminary plan 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 to the May 23<sup>rd</sup> meeting of the Board. Seconded by Vice Chair Kalmar.**

**The motion carried 6-0-0.**

**ITEM 2 - 16 Trefethen Avenue – Shoreland Development Plan Review**

Action: Accept or deny application. Approve or deny plan. Owners Joseph & Dierdre McEachern and applicant Paul Dobberstein request consideration to replace the existing foundation of a structure located on a 23,444 sf parcel at 16 Trefethen Avenue (Tax Map 10 Lot 25) in the Residential – Urban (R-U) and the Shoreland Overlay (OZ-SL-250') Zones.

Paul Dobberstein, Ambit Engineering, gave an overview of the project.

The Board discussed with the Planner and the applicant the Board of Appeals decision on the splitting of the parcel into two lots.

Mr. Dobberstein outlined the devegetated area calculations and noted that the whole was utilized for the calculations.

The Board further discussed the separate lots issue relative to the setback requirement for the boathouse structure.

**Mr. White moved to accept the shoreland development plan application dated March 21, 2019 from owners Joseph and Dierdre McEachern and applicant Paul Dobberstein to replace the existing foundation of a structure located on a 23,444 sf parcel at 16 Trefethen Avenue (Tax Map 10 Lot 25) in the Residential – Urban (R-U) and the Shoreland Overlay (OZ-SL-250') Zones. Seconded by Mr. Ledgett.**

**There was discussion amongst the Board, the Planner and Mr. Dobberstein regarding whether to consider the request as one parcel or two. The Board determined that the request would be only for the southerly parcel containing boathouse. The plans will be revised to reflect the determination.**

**The motion carried 7-0-0.**

**Mr. White moved to schedule a site walk for the application for Tuesday, May 21<sup>st</sup> at 11 a.m. Seconded by Mr. Ledgett.**

**The motion carried 7-0-0.**

**ITEM 3 - 12 Moore's Island Lane – Shoreland Development Plan Review**

Action: Accept or deny application; Approve or deny plan. Owner Jonathan W. Sobel Rev. Trust and applicant Jonathan W. Sobel request consideration to repair and renovate an existing single family dwelling with additional gable, dormers and second story infill on a 41,766 sf parcel located at 12 Moore's Island Lane (Tax Map 27 Lot 35) in the Residential - Kittery Point Village (R-KPV) and Shoreland Overlay (OZ-SH-250') Zones.

Jonathan Sobel gave an overview of the project. He explained that all of the proposed renovation would be within the existing footprint of the house.

**Vice Chair Kalmar moved to accept the shoreland development plan dated April 19, 2019 from owner Jonathan W. Sobel Rev. Trust and applicant Jonathan W. Sobel to repair and renovate an existing single family dwelling with additional gable, dormers and second story infill on a 41,766 sf parcel located at 12 Moore's Island Lane (Tax Map 27 Lot 35) in the Residential - Kittery Point Village (R-KPV) and Shoreland Overlay (OZ-SH-250') Zones. Seconded by Mr. Ledgett.**

**The motion carried 7-0-0.**

**Mr. Ledgett moved to approve the shoreland development plan dated April 19, 2019 from owner Jonathan W. Sobel Rev. Trust and applicant Jonathan W. Sobel to repair and renovate an existing single family dwelling with additional gable, dormers and second story infill on a 41,766 sf parcel located at 12 Moore's Island Lane (Tax Map 27 Lot 35) in the Residential - Kittery Point Village (R-KPV) and Shoreland Overlay (OZ-SH-250') 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 proposed development does not include changes to the site and so it does not increase the lot's devegetated area.

**Conclusion:** The requirement is not applicable.

**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:** The proposed development does not increase nonconformity of any structure or aspect of the lot.

**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**

**16.7.3.3.B (e) [5] [a]**

**Finding:** There will be no expansion of the footprint of the structure nor an increase in the height of the existing structure with the proposed renovation.

**Conclusion:** This standard 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**

**ITEM 4 - 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 overview of the proposed project.

Kimberly Lingard, owner, gave a brief history of the property. She discussed her intentions with the property. She explained the situation with the demolition of the existing house in March.

Mr. Ledgett asked how she would demonstrate that there would be no expansion of the structure within 25' of the stream. Mr. McCarthy addressed the issue. There was discussion between the two regarding the height restriction within the 25' setback. Mr. McCarthy argued that they were following the State's definition of expansion within the 25'. He discussed that change in roof pitch between the new and old structures.

There was discussion amongst the Board, the planner and Mr. McCarthy regarding the applicable definition height and expansion.

The Board agreed that shifting the location of the new shed made sense.

**Mr. White moved to accept as complete the shoreland development plan 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-SL-75') Zones. Seconded by Mr. Alesse.**

**The motion carried 7-0-0.**

The Board determined that a site walk and public hearing were not necessary.

**Vice Chair Kalmar moved to continue the item for a period not to exceed 90 days. Seconded by Mr. Ledgett.**

**The motion carried 7-0-0.**

**ITEM 5 - 76 Dennett Road – Mixed-Use Residential Development – Site Sketch Plan Review**

Accept or deny application, Approve or deny concept plan. Owners William J. Cullen and Sail Away, LLC and applicant William Wharff request consideration of a mixed-use residential development on 23.3+- acres of land at 76 Dennett Road (Tax Map 6 Lots 15B & 16A and Tax Map 13, Lot 4) in the Mixed Use - Neighborhood (MU-N) Zone. Agent is Shawn Tobey, P.E. Hoyle, Tanner & Associates, Inc.

Shawn Tobey, Hoyle, Tanner & Associates, Inc. gave an overview of the proposed development. He outlined the details of the sketch plan submittal and discussed the proposed uses. He discussed the intent was to try to create a lot of open space / greenspace as part of the development. He noted that the proposed screening and landscaping was to provide as much as possible from adjacent properties. He also

noted the proposed sidewalks for the development and the provision of a nature trail for residents.

He explained that they have met all the zoning requirements for the Mixed-Use Neighborhood (MU-N) Zone and they are not requesting any waivers from the ordinance requirements.

The Board and the applicant discussed the following:

- Proposed retail / commercial uses;
- The target market for the proposed apartments;
- Interconnections of services, roads and utilities to adjacent undeveloped land in the MU-N Zone;
- Parking space numbers;
- Previously approved development of the site and site disturbance; and,
- Approval of the wetlands crossing for the road and identification of other wetland areas; Staff will research.

**Mr. Ledgett moved to accept and approve the site sketch plan, dated April 17, 2019 as prepared by Hoyle, Tanner & Associates, Inc., for owners William J. Cullen and Sail Away, LLC and applicant William Wharff for a mixed-use residential development on 23.3+- acres of land at 76 Dennett Road (Tax Map 6 Lots 15B & 16A and Tax Map 13, Lot 4) in the Mixed-Use – Neighborhood (MU-N) Zone. Seconded by Mr. Fitch.**

**The motion carried 7-0-0.**

#### **ITEM 6 – Board Member Items/Discussion**

The Chair noted the joint workshop with the Town Council on the proposed ADU ordinance amendments scheduled for June 10<sup>th</sup> at 5 pm.

#### **ITEM 7 - Town Planner Items**

None.

#### **Adjournment**

**Mr. Alesse moved to adjourn the meeting.  
Mr. Ledgett seconded the motion.**

**The motion carried 7-0-0.**

The Kittery Planning Board meeting of May 9, 2019 adjourned at 8:06 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>.