

1 **CALL TO ORDER**

2

3 **ROLL CALL**

4

5 Present: Steve Bellantone, Member; Drew Fitch, Member, Ronald Ledgett, Member;
6 Russell White, Member (arrived late 6:03 pm), Mark Alesse, Member; Karen Kalmar,
7 Vice Chair, and Dutch Dunkelberger, Chair

8

9 Absent: Mark Alesse, Member

10

11 Staff: Jamie Steffen, Town Planner

12

13 Advisory: Earldean Wells, Conservation Commission

14

15 **PLEDGE OF ALLEGIANCE**

16

17 **APPROVAL OF MINUTES – May 21, 2019 Site Walk**

18

19 Vice Chair moved to accept the minutes of the site walk of May 21, 2019. Seconded by
20 Mr. Fitch.

21

22 The motion carried 4-0-1.

23

24 **PUBLIC COMMENTS**

25

26 The Chair opened the public comments section.

27

28 Paula Cruz, 3 Liberty Lane, asked when she would be able express her concerns about
29 the proposed development at 7 Stoneridge Way. Chair Dunkelberger explained that
30 she would be able to express that either at the public hearing or in writing to the
31 Planning Department.

32

33 **OLD BUSINESS**

34

35 **ITEM 1 – 16 Trefethen Avenue – Shoreland Development Plan Review**

36 Action: Approve or deny plan. Owners Joseph & Dierdre McEachern and applicant Paul
37 Dobberstein request consideration to reconstruct the existing foundation of a structure
38 located on a 7,341+- sf parcel at 16 Trefethen Avenue (Tax Map 10 Lot 25) in the
39 Residential – Urban (R-U) and the Shoreland Overlay (OZ-SL-250') Zones.

40 Paul Dobberstein, Ambit Engineering, gave an update on the plans as a result of the
41 site walk. He explained that the proposed work was only to replace portions of the
42 boathouse foundation.

43

44 Vice Chair Kalmar asked if he had received the approved flood hazard permit yet. Mr.
45 Dobberstein responded that he had.

46

47 Ms. Wells noted the Conservation Commission's concerns regarding the structure
48 elevation relative to recent high tides and storm surges.

49

50 There was discussion about the concern and it was noted that there would be openings
51 in the foundation walls to allow the tide to go in and out. It was noted that that the 1st
52 floor was still 4 feet above the mean high water level. The basement is designed to be
53 flood resistant.

54

55 **Vice Chair Kalmar moved to approve the Shoreland Development Plan application**
56 **dated 5/24/19 from Joseph and Dierdre McEachern and applicant Paul**
57 **Dobberstein to reconstruct the existing foundation of a structure located on a**
58 **7,341+- sf parcel at 16 Trefethen Avenue (Tax Map 10 Lot 25) in the Residential –**
59 **Urban (R-U) and the Shoreland Overlay (OZ-SL-250') Zones. Seconded by Mr.**
60 **Ledgett.**

61

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

63

64 **FINDINGS OF FACT**

65

66 The Planning Board made the following factual findings and conclusions:

67

68 **Section 16.3.2.17.D Shoreland Overlay Zone**

69 (1)(d). The total footprint of areas devegetated for structures, parking lots and other
70 impervious surfaces, must not exceed twenty (20) percent of the lot area, including
71 existing development, except in the following zones: Residential-Urban (r-U) Zone
72 where the lot is equal to or less than 10,00 square feet, the maximum de-vegetated
73 area is fifty (50) percent.

74

75 **Finding:** The existing devegetated area is 15.2% of the lot area and will remain the
76 same post-construction.

77 **Conclusion:** The standard appears to be met.

78

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

80

81 **Section 16.7.3.1 Prohibitions and Allowances**

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

84

85 **Finding:** This is an existing, nonconforming parcel with an existing structure that is
86 nonconforming to the 100-foot setback from the normal high water line. The proposed
87 reconstruction does not involve an expansion of the nonconformity.

88 **Conclusion:** This requirement appears to be met.

89

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

91

92 **Section 16.7.3.3 Nonconforming Structures**

93 **16.7.3.3.B Nonconforming structure repair and/or expansion**

94

95 **Finding:** The proposed foundation reconstruction meets the criteria specified in Section
96 16.7.3.3 A (2) and B. (3) (e) [1].

97

98 **Conclusion:** This requirement appears to be met.

99

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

101

102 **Section 16.6.6. Basis for Decision**

103 **16.6.6.A.2** In hearing appeals/requests under this Section, the Board of Appeals [note:
104 Planning Board is also subject to this section per 16.7.3.3.B.(1) above] must use the
105 following criteria as the basis of a decision:

106 1. Proposed use will not prevent the orderly and reasonable use of adjacent properties
107 or of properties in adjacent use zones;

108 2. Use will not prevent the orderly and reasonable use of permitted or legally
109 established uses in the zone wherein the proposed use is to be located, or of permitted
110 or legally established uses in adjacent use zones;

111 3. Safety, the health, and the welfare of the Town will not be adversely affected by the
112 proposed use or its location; and

113 4. Use will be in harmony with and promote the general purposes and intent of this
114 Code.

115

116 **Finding:** The proposed development does not pose a concern.

117 **Conclusion:** The requirement appears to be met.

118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158

Vote of 6 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 6 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.

:

Vote of 6 in favor 0 against 0 abstaining

NEW BUSINESS

ITEM 2 – 96 Pepperrell Road – Shoreland Development Plan Review

Action: Accept or deny application. Approve or deny plan. Owners/applicants Paul J. & Jessica O. McKeon request consideration for repair/replacement of an existing stone revetment and other site improvements on a 12,333 sf parcel located at 96 Pepperrell Road (Tax Map 27 Lot 47) in the Residential – Kittery Point Village (R-KPV) and the Shoreland Overlay (OZ-SL-250') Zones. Agent Steven Riker, CWS - Ambit Engineering, Inc.

Steve Riker, Ambit Engineering, gave an overview of the proposed project.

After question from Chair Dunkelberger about any proposed exterior changes to the boathouse, Mr. McNamara explained that there would be no geometric changes only new siding, windows, and roof. He described the use of the structure as for storage and recreation.

The Board discussed with Mr. McNamara the nonconforming structure reconstruction provision that relates to removal of any portion of the structure by more than 50% of the market value having to comply with the waterbody setback to the greatest practical extent. Mr. McNamara explained that a building permit had already been issued for the work. Mr. Steffen gave the building permit history as he knew it. There was further discussion regarding the current work to the boathouse and the permit issued. Vice Chair Kalmar asked

159 staff to find out more details regarding what had been applied for and permitted for work on
160 the boathouse and to inform the Board of what it should do.

161
162 Mr. McNamare gave an overview of the site improvements. Ms. Wells questioned why the
163 construction of the 1st floor porch was not included in the application. Mr. Steffen responded
164 that it was listed in the cover letter included in the application. She also inquired about the
165 one time only enlargement of up to 30% and whether that was being exceeded with the
166 proposed improvements to the house. Mr. McNamara responded that they had researched
167 that question and found that they would be within the 30% expansion limitation.

168
169 The Board stated it would like to have the application revised to include 1st floor porch
170 construction.

171
172 **Mr. White moved to accept the shoreland development plan application dated May 2,**
173 **2019 from owners/applicants Paul J. & Jessica O. McKeon for repair/replacement of**
174 **an existing stone revetment and other site improvements on a 12,333 sf parcel located**
175 **at 96 Pepperrell Road (Tax Map 27 Lot 47) in the Residential – Kittery Point Village (R-**
176 **KPV) and the Shoreland Overlay (OZ-SL-250') Zones as complete subject to the**
177 **comments that the Board made that evening. Seconded by Mr. Ledge tt.**

178
179 **The motion carried 6-0-0.**

180
181 **Vice Chair Kalmar moved to schedule a site walk for the application for Tuesday, July**
182 **2nd at 11 a.m. Seconded by Mr. Ledge tt.**

183
184 **The motion carried 6-0-0.**

185
186 **Vice Chair Kalmar moved to schedule a public hearing for the application for the July**
187 **11th Planning Board meeting. Seconded by Mr. Ledge tt.**

188
189 **The motion carried 6-0-0.**

190
ITEM 3 – 7 Stoneridge Way – Right-of-Way Plan Review

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

194
195 Joshua Philbrick, owner/applicant gave a history of the process that lead to the request.

196
197 Vice Chair Kalmar expressed her concern about the shape of the lot and potential access
198 to large acreage to the rear of the lot relative to the construction of the road. There was
199 discussion about the potential for future development off of the right-of-way. The Board then
200 discussed duplex development relative to the building permit and what would be required
201 for upgrades to the existing right-of-way.

202

203 Chair Dunkelberger then opened the floor to comments from the public.

204
205 Paula Cruz, 3 Liberty Lane, expressed her concern about the density of development and
206 potential filling of wetlands due to the upgrade of the road. She asked for a site walk and
207 public hearing.

208
209 Ken Thumuth, 4 Stoneridge Way, discussed Stoneridge Way and Remicks Lane right-of-
210 ways.

211
212 Janice Stanley, 60 Remicks Lane, discussed the road extending from the end of Remicks
213 Lane.

214
215 Mr. Philbrick and the Board further discussed his case. He provided further details regarding
216 the construction of the duplex.

217
218 Chair Dunkelberger discussed the necessary waivers from the road standards. He
219 discussed with the Board and the applicant potential conditions of approval relative to
220 upgrading the road for future development and forming a private road association for
221 maintenance of Stoneridge Way.

222

Mr. White moved to continue the right-of-way plan application dated 5/23/19 with associated plan dated August 22, 2018 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 for a period not to exceed 90 days. Seconded by Vice Chair Kalmar.

Mr. Bellantone asked if the applicant had posted a bond for road damage due to the delivery of the house. Mr. Philbrick responded that it was in his contract to fix the road when he was done.

Chair Dunkelberger reiterated that the Board would not act upon the waiver requests until the next meeting. Mr. Philbrick asked for confirmation that his Certificate of Occupancy was tied to the Planning Board approval. Chair Dunkelberger confirmed that it was.

223 Mike Alessi, 70 Remicks Lane, approached the podium. He discussed the private
224 section of Remicks Lane which he owns. He asked whether a duplex was allowed by
225 zoning. It was confirmed that it was. He discussed wetlands impacts of widening
226 Stoneridge Way. There was discussion between Mr. Alessi and the Board regarding
227 impacts to Remicks Lane from the development.

228

The motion carried 6-0-0.

229

230 **ITEM 4 – 35 Thaxter Lane – Shoreland Development Plan Review**

231 Action: Accept or deny application; Approve or deny plan. Owners/Applicants John &
232 Mary Adamik request consideration to construct a single family dwelling on a vacant
233 parcel located at 35 Thaxter Lane (Tax Map 64 Lot 10A) in the Residential – Rural
234 Conservation (R-RC) and Shoreland Overlay (OZ-SH-250') Zone. Agent is Chris
235 Redmond, Mighty Roots.

236
237 Chris Redmond, Mighty Roots, gave an overview of the application. He explained that a
238 portion of the proposed dwelling would be in the Shoreland Overlay Zone but outside of
239 the 100 foot setback.

240
241 Vice Chair Kalmar raised two issues with the application. The first being the question
242 whether the maximum footprint of a structure requirement of 1500 sf is contained in the
243 ordinance in error as Mr. Steffen had stated. She noted that staff will further research
244 the question. The second issue was one she asked the applicant to address which was
245 there no location on the property other than the location within the Shoreland Overlay
246 Zone where the dwelling could be built.

247
248 Mr. Redmond responded by giving the Board the background on the application and
249 previous determinations by the Code Office. He went on to discuss that the owners /
250 applicants have chosen the location primarily for the view. He did note a wetland area
251 in front of the lot which they were trying to avoid. He then discussed the proposed
252 amendments to the overlay zones that may affect the property but acknowledged that
253 they had not been voted on yet. Chair Dunkelberger asked why they could not just flip-
254 flop the house and the driveway. John Adamik, owner / applicant approached the
255 podium. He explained that they chose the location of the house to try to center it on the
256 lot. He further explained that he didn't not want to located it too close to the neighboring
257 property line.

258
259 There was discussion amongst the Board and Mr. Steffen regarding the current
260 language in the ordinance and the timing of the adoption of the proposed amendments.

261
262 **Vice Chair Kalmar moved to accept the Shoreland Development plan application**
263 **dated May 31, 2019 from owners/applicants John & Mary Adamik to construct a**
264 **single family dwelling on a vacant parcel located at 35 Thaxter Lane (Tax Map 64**
265 **Lot 10A) in the Residential – Rural Conservation (R-RC) and Shoreland Overlay**
266 **(OZ-SH-250') Zone as complete. Seconded by Mr. Ledgett.**

267
268 **The motion carried 6-0-0.**

269

270 **Mr. White moved to continue the Shoreland Development plan application dated**
271 **May 31, 2019 from owners/applicants John & Mary Adamik to construct a single**
272 **family dwelling on a vacant parcel located at 35 Thaxter Lane (Tax Map 64 Lot**
273 **10A) in the Residential – Rural Conservation (R-RC) and Shoreland Overlay (OZ-**
274 **SH-250') Zone for a period not to exceed 90 days. Seconded by Vice Chair**
275 **Kalmar.**

276

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

278

279 **ITEM 5 – Board Member Items/Discussion**

280 The Board discussed the code updates with the Planner. Chair Dunkelberger
281 requested that Mr. Steffen provide the Board with the most up-to-date versions of the
282 Code. Mr. Steffen gave a brief update on the Recodification process and the Board was
283 informed that the next meeting date of the Kittery Land Issues Committee (KLIC) was
284 coming up on June 17th.

285

286 **ITEM 7 - Town Planner Items**

287 None.

288

289 **Adjournment**

290

291 **Mr. White moved to adjourn the meeting.**

292 **Mr. Ledgett seconded the motion.**

293

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

295

296 The Kittery Planning Board meeting of June 13, 2019 adjourned at 8:05 p.m.

297

298 Submitted by Jamie Steffen, Town Planner, on August 5, 2019.

299

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

306

307