

1 **CALL TO ORDER**

2

3 **ROLL CALL**

4

5 Present: Karen Kalmar, Dutch Dunkelberger, Mark Alessi, Drew Fitch, Russell White, Ronald
6 Ledgett

7

8 Late arrival: Ann Grinnell

9

10 Staff: Kathy Connor, Interim Planner; Adam Causey, Director of Planning and Development;
11 Jessa Kellogg, Shoreland Resource/Protection Officer

12

13 Advisory: Earldean Wells, Conservation Commission

14

15 **PLEDGE OF ALLEGIANCE**

16

17 **APPROVAL OF MINUTES – May 24, 2018**

18

19 Line 173 – remove repeated line.

20

21 **Mr. Dunkelberger moved to accept the Minutes of May 24, 2018 as amended.**

22 **Mr. Ledgett seconded the motion.**

23

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

25

26 **PUBLIC COMMENT**

27

28 Vice Chair Kalmar opened the public comment segment of the meeting. There being no
29 comments, Vice Chair Kalmar closed the public comment.

30

31 **PUBLIC HEARING**

32

33 **ITEM 1 – Neighborhood Mixed Use (formerly Business Park) Zoning District Public**
34 **Hearing, Vote to Recommend.** Take public comment. Review and discuss proposed changes
35 to the former Business Park Zone, now called the Neighborhood Mixed Use Zone. Vote
36 whether to recommend to Town Council.

37 Vice chair opened

38

39 Vice Chair Kalmar opened the public hearing.

40

41 Rich Balano, 3 Oxpoint Drive, explained he is against the proposal and questioned how liner
42 buildings will be used. He also shared his concern of the building height allowance of 70 feet
43 because he feels it will change the character of the Town. He referred to the current and

44 proposed Comprehensive Plans and read the preamble that refers to Kittery as a small town.
45 He urged the Board to amend the height requirement to 40 ft.

46
47 Bill McCarthy, 27 Adams Drive, reiterated Mr. Balano's concerns and commented the Town
48 should be careful of raising heights of buildings. He added he believes the 40 ft. height limit
49 serves the Town well.

50
51 There being no further comments, Vice Chair Kalmar closed the public hearing.

52
53 Mr. Alesse expressed his concern of the definition of permitted uses under B and of the
54 inclusion of public utility facilities, which includes sewage, being compatible with housing. He
55 added the height maximum is too high and believes it does not make sense because the Town
56 would need to purchase new fire equipment.

57
58 Mr. Ledgett had the following concerns and comments:

- 59 • Line 65 - Other Uses - Title 16.6.6 is a Board of Appeals' requirement and he
60 questioned why it is included.
- 61 • He would prefer the building height being above 40 ft. if it would benefit reasonably
62 priced residences and he is concerned it could set a precedence in other areas in Town.
- 63 • Line 149, Page 4 – suggested the word “only” be taken out. Ms. Connor agreed.
- 64 • Lines 211 – 213 – “Public Parking Access for Trails” Ms. Connor explained there will be
65 on street parking when the streets are developed and added they discussed the
66 reduction in parking with code staff as well.
- 67 • Line 272 – Ms. Connor defined pocket park.
- 68 • Line 347 – Mr. Ledgett questioned this paragraph and Ms. Connor explained she
69 provided “A-B” for context, with “C” being the amendment.

70
71 Mr. Fitch explained the Inclusionary Housing Working Group was in consensus at their last
72 meeting to wait until they are ready to add inclusionary housing incentives for this proposal.

73
74 Mr. Dunkelberger pointed out the proposal is a test and he agrees with the height limit as
75 written because it allows flexibility and will be conducive with the area.

76
77 Vice Chair Kalmar commented that the height will add density which is difficult for that area.
78 She also reminded the Board and the public if the proposal is sent to the Town Council, there
79 will be another public hearing.

80
81 Mr. White explained he is concerned with the height but would agree with the limit if it is
82 contained in this zone only. He added the areas of developable land is low for this area, so the
83 standards need to be different from other areas of Town. He would like to see incentives for
84 inclusionary housing in the future and understands this will not happen right away. He pointed
85 out the Town Council is responsible of deciding if the Town needs another fire truck to service
86 the height.

87

88 Vice Chair Kalmar encouraged Board members and the public to express their concerns to the
89 Town Council.

90

91 Ms. Connor addressed Mr. Alesse's comments regarding the public utility facilities and
92 explained there is discussion that the water district may consider that location. She also
93 pointed out Title 16.8.11.6 has language that allows the height of 60 ft. for cluster
94 developments and mixed-use cluster developments if the fire department is satisfied with their
95 ability to service the building.

96

97 **Mr. Dunkelberger moved to recommend the modified plan to the former Business Park**
98 **Zone, now called the Neighborhood Mixed Use Zone to the Town Council.**

99 **Mr. White seconded the motion.**

100

101 **The motion carried 4-2-0. (Mr. Ledgett and Mr. Alesse opposed).**

102

103 **OLD BUSINESS**

104

105 **ITEM 2 – Miller Road – Major Subdivision Preliminary Plan Review Action:** Accept or deny
106 application, Set public hearing date. Owners Paul E. and Peter J. McCloud and Applicant
107 Joseph Falzone request consideration of a 6-lot conventional subdivision on land along Miller
108 Road (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay
109 (OZ-RP) Zones. Agent is Ken Wood, Attar Engineering.

110

111 Vice Chair Kalmar recused herself from this item.

112

113 Mr. Wood provided an overview of the project. He added the preliminary plan is submitted and
114 meets the requirements. He informed the Board the plan will have slight changes because
115 discussions took place between the applicant, a representative from his office and an abutter,
116 Jeff Clifford. Mr. Wood explained the change is regarding water discharge and he described
117 how this will be accomplished and how it will preserve more trees on Miller Road.

118

119 The following staff comments were addressed:

120

- 121 • Note 1 – The applicant agreed to add the 40 ft. front yard setback number to the plans
122 and will add a note describing the site as wooded. Mr. Wood explained the Board
123 packets include an amended FEMA Flood Zone Map and they have received the Letter
124 of Map Amendment (LOMA), which is also copied and submitted with the preliminary
125 plan. The applicant does not own the property and has a purchase and sale agreement
126 to do so when the plans are approved. The plan will also show the 50 ft. buffer along
127 Miller Road.
- 128 • The erosion and sediment control plan will be the same but with less disturbance
129 because of the added swales along Miller Road.
- 130 • Note 3 –Pedestrians can walk down the street to get to the open space.
- 131 • Note 5 - Stormwater easement calculations for Lot 1 will be on the final plan and will
132 meet the requirement.

- 133 • Note 6 – The applicant will change 40 ft. to 50 ft. for the buffer that runs along Miller
134 Road and there is a wooded buffer along the rear setbacks. The common road to the
135 back lots will be a wooded buffer in that location pointed out from the site walk. The
136 applicant will add impervious surface for roads and driveways to the plan.
- 137 • Note 7.- This item was discussed and stormwater flow will be going across Miller Road.
138 The applicant has also agreed to reduce the 40 ft. setback for the northerly stormwater
139 pond. Mr. White asked if losing trees because of adding the swale. Mr. Wood
140 explained the property line on the GIS tax map was not correct and he pointed out on
141 the map where the swale will be restored and there will be no disturbance in that area.
142 He added the culvert under the road will need a small area excavated and, in that area,
143 there will be some disturbance.
- 144 • Note 8 – The applicant agreed the buffers along the ROW and will be 50 feet wide and
145 to the 100 ft. no cut buffer in the Resource Protection setback.
- 146 • Note 9 - The applicant agrees and will revise the Home Owner’s Documents and asked
147 for a waiver for the road. The easements for the shared driveway and dimensions will
148 be clarified on the final plan. The significant tree will not be cut down and was one of
149 the four trees addressed earlier.
- 150 • Note 10 – The Home Owner Association (HOA) documents will be revised to include all
151 lots. Mr. White suggested having Lots 1, 2 and 6 shares in the maintenance and
152 plowing and the other three should have legal access for pedestrians. The applicant
153 agreed to investigate this. The HOA documents will state the removal of vegetation in
154 the OZ-RP Zone must be permitted by the Shoreland Resource Officer. Ms. Connor
155 pointed out the Town’s attorney will review the HOA documents before completion.
- 156

157 Mr. Falzone added he also agreed the buffer along driveway is 50 ft not 40 ft. and he has
158 spoken with abutters and he has no objection to request the company to move a pole to save a
159 tree. Mr. Dunkelberger stated he appreciates the applicant’s work with the abutters.

160

161 **Mr. Ledgett moved to accept the preliminary plan application dated May 23, 2018 as**
162 **complete from owners Paul E. and Peter J. McCloud and applicant Joseph Falzone for a**
163 **6-lot subdivision on land along Miller Road (Tax Map 59 Lot 20) in the Residential-Rural**
164 **(R-RL) and Resource Protection Overlay (OZ-RP) Zones with the condition that all staff**
165 **comments from staff notes dated June 14, 2018 are addressed in the next submission**
166 **and there are no other conditions made.**

167 **Mr. Fitch seconded the motion.**

168

169 **The motion carried 5-0-0.**

170

171 **Mr. Ledgett moved to set a public hearing on July 12, 2018 for the preliminary**
172 **subdivision application dated May 23, 2018 from owners Paul E. and Peter J. McCloud**
173 **and applicant Joseph Falzone for a 6-lot subdivision on land along Miller Road (Tax Map**
174 **59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay (OZ-RP)**
175 **Zones.**

176 **Mr. Alesse seconded the motion.**

177

178 **The motion carried 5-0-0.**

179

180 **Item 3 - 16 Bond Road Right-of-Way – ROW Plan Review Action: Accept or deny**
181 **application. Approve or deny plan.** Owner and applicant, Sami Yassa requests consideration of
182 a right-of-way plan for a 3.04 +/- acre parcel located on Bond Road (Tax Map 25 Lot 12) in the
183 Residential Kittery Point Village zone (R-KPV) and the Shoreland Overlay zone (OZ-SL-250).
184 Agent is Chris Mende, PLS., Civil Consultants.

185

186 Mr. Yassa explained they resubmitted the ROW plan for final approval and incorporated the
187 Board's suggestions from the May meeting. A description of the proposed boundary that
188 would define the two lots has been done and the total street frontage and total acreage has
189 been shown on the plan. He added they have also clarified the location of the gravel widening
190 of the existing travel way and how it will be more centered in the ROW.

191

192 The Board determined the waivers requested were accepted and are complete. Mr.
193 Dunkelberger thanked the application for listening and addressing the Board's issues.

194

195 **Mr. Alesse moved to accept the ROW plan application dated May 22, 2018 as complete**
196 **and approve the ROW plan for Sami Yassa requesting consideration of a right-of-way**
197 **for a 3.04 +/- acre parcel located on Bond Road (Tax Map 25 Lot 12) in the Residential**
198 **Kittery Point Village zone (R-KPV) and the Shoreland Overlay zone (OZ-SL-250).**

199 **Mr. Dunkelberger seconded the motion.**

200

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

202

203 **KITTERY PLANNING BOARD**

APPROVED

204 **FINDINGS OF FACT**

M25 L12

205 **for**

206 **16 Bond Road**

207 **Private Right-of-Way Plan**

208

209 Note: This approval by the Planning Board constitutes an agreement between the Town and
210 the Developer incorporating the Development plan and supporting documentation, the
211 Findings of Fact, and all waivers and/or conditions approved and required by the Planning
212 Board.

213 **WHEREAS:** Owner and applicant, Sami Yassa requests consideration of a right-of-way plan
214 for a 3.04 +/- acre parcel located on Bond Road (Tax Map 25 Lot 12) in the Residential Kittery
215 Point Village zone (R-KPV) and the Shoreland Overlay zone (OZ-SL-250).

Hereinafter the "Development".

Pursuant to the Plan Review meetings conducted by the Planning Board as duly noted in the Plan Review Notes dated 6/12/2018;

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Sketch Plan Review	Held	5/10/2018
Site Visit		
Preliminary Plan Completeness Review	Held	6/14/2018
Public Hearing		
Preliminary Plan/Final Plan Approval	Granted	6/14/2018

217

and pursuant to the Project Application and Plan and other documents considered to be a part of the approval by the Planning Board in this finding consist of the following and as noted in the Plan Review Notes dated 6/14/2018 (Hereinafter the "Plan").

1. Private Road Class 1 ROW Plan, Sheet C1, by Civil Consultants, dated May 22, 2018.
2. Private Street Class 1 Grading Plan, Sheet C2, by Civil Consultants, dated May 22, 2018.

<p>NOW THEREFORE, based on the entire record before the Planning Board as and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings as required by Section 16.10.8.3.4. and as recorded below:</p>
<p>FINDINGS OF FACT</p> <p>Action by the board shall be based upon findings of fact which certify or waive compliance with all the required standards of this title, and which certify that the development satisfies the following requirements:</p>
<p>A. Development Conforms to Local Ordinances.</p>
<p><i>The proposed development conforms to a duly adopted comprehensive plan as per adopted provisions in the Town Code, zoning ordinance, subdivision regulation or ordinance, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.</i></p>

<p>Finding: The proposed right-of-way appears to conform to applicable Title 16 standards with the conditions of approval included herein.</p> <p>Conclusion: This standard appears to be met.</p>
<p style="text-align: center;">Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>B. Freshwater Wetlands Identified.</p>
<p><i>All freshwater wetlands within the project area have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.</i></p>
<p>Finding: All wetlands have been identified and no impacts are proposed.</p> <p>Conclusion: This standard appears to be met.</p>
<p style="text-align: center;">Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>C. River, Stream or Brook Identified.</p>
<p><i>Any river, stream or brook within or abutting the proposed project area has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S. §480-B, Subsection 9.</i></p>
<p>Finding: No rivers, streams, or brooks have been identified on site.</p> <p>Conclusion: This standard is not applicable.</p>
<p style="text-align: center;">Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>D. Water Supply Sufficient. {and}</p>
<p><i>The proposed development has sufficient water available for the reasonably foreseeable needs of the development.</i></p>
<p>E. Municipal Water Supply Available.</p>
<p><i>The proposed development will not cause an unreasonable burden on an existing water supply, if one is to be used.</i></p>
<p>Finding: There is no additional proposed water use because both lots are already developed.</p>

Conclusion: This standard appears to be met.
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
F. Sewage Disposal Adequate.
<i>The proposed development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.</i>
Finding: Both lots are already developed..
Conclusion: This standard appears to be met.
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
G. Municipal Solid Waste Disposal Available.
<i>The proposed development will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be used.</i>
Finding: The proposed Street ROW will not increase the burden on solid waste use since both lots are already developed.
Conclusion: This standard appears to be met.
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
H. Water Body Quality and Shoreline Protected.
<i>Whenever situated entirely or partially within two hundred fifty (250) feet of any wetland, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.</i>
Finding: The right-of-way is not located in the shoreland overlay zone.
Conclusion: This standard is not applicable.
Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining
I. Groundwater Protected.

<p><i>The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.</i></p>
<p>Finding: Both lots are currently using private septic.</p> <p>Conclusion: This standard appears to be met.</p>
<p style="text-align: center;">Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>J. Flood Areas Identified and Development Conditioned.</p>
<p><i>All flood-prone areas within the project area have been identified on maps submitted as part of the application based on the Federal Emergency Management Agency’s Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the proposed development, or any part of it, is in such an area, the applicant must determine the one hundred (100) year flood elevation and flood hazard boundaries within the project area. The proposed plan must include a condition of plan approval requiring that principal structures in the development will be constructed with their lowest floor, including the basement, at least one foot above the one hundred (100) year flood elevation.</i></p>
<p>Finding: There is no additional construction proposed.</p> <p>Conclusion: This standard is not applicable.</p>
<p style="text-align: center;">Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>K. Stormwater Managed.</p>
<p><i>Stormwater Managed. The proposed development will provide for adequate stormwater management</i></p>
<p>Finding: The proposed right-of-way construction is simple (4 foot widening of an existing gravel travel way) with marginal additional stormwater produced.</p> <p>Conclusion: This standard appears to be met.</p>
<p style="text-align: center;">Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>L. Erosion Controlled.</p>

The proposed development will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

Finding: The proposed right-of-way construction (widening an existing travel way from 12 feet to 16 feet) is simple with marginal additional stormwater produced.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

M. Traffic Managed.

The proposed development will:

- 1. Not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed; and*
- 2. Provide adequate traffic circulation, both on-site and off-site.*

Finding: The proposed right-of-way is an improvement over an existing driveway.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

N. Water and Air Pollution Minimized.

The proposed development will not result in undue water or air pollution. In making this determination, the following must be considered:

- 1. Elevation of the land above sea level and its relation to the floodplains;*
- 2. Nature of soils and sub-soils and their ability to adequately support waste disposal;*
- 3. Slope of the land and its effect on effluents;*
- 4. Availability of streams for disposal of effluents;*
- 5. Applicable state and local health and water resource rules and regulations; and*
- 6. Safe transportation, disposal and storage of hazardous materials.*

<p>1. All proposed development is located outside of a Flood Hazard Area. 2. No additional development is proposed beyond the improvement of the travel way. 3 thru 6. Not applicable to the proposed development.</p>
<p>Finding: The proposed ROW will not result in undue water or air pollution</p>
<p>Conclusion: This standard appears to be met.</p>
<p>Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining</p>

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<p>O. Aesthetic, Cultural and Natural Values Protected.</p>
<p><i>The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.</i></p>
<p>Finding: The proposed ROW does not impact any significant aesthetic, cultural or natural values that require protection.</p>
<p>Conclusion: This standard appears to be met.</p>
<p>Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>P. Developer Financially and Technically Capable.</p>
<p><i>Developer is financially and technically capable to meet the standards of this section.</i></p>
<p>Finding: The ROW improvements proposed to widen the existing gravel road are minimal and involve a small amount of grading. Such small improvements do not require a performance guarantee.</p>
<p>Conclusion: This standard appears to be met.</p>
<p>Vote of <u>6</u> in favor <u>0</u> against <u>0</u> abstaining</p>
<p>S. For a Right of Way.</p>
<p><i>The proposed ROW:</i></p> <ol style="list-style-type: none"> 1. <i>Does not create any nonconforming lots or buildings; and</i> 2. <i>Could reasonably permit the right of passage for an automobile.</i>

Finding: The proposed development does not create any nonconforming lots or buildings and provides adequate of passage for an automobile.

Conclusion: This standard appears to be met.

Vote of 6 in favor 0 against 0 abstaining

Article III. Street Signage

16.8.3.1 Names.

Streets which join or are in alignment with streets of abutting or neighboring properties must bear the same name. Names of new streets may not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and are subject to the approval of the Planning Board.

Finding: The applicant has completed a Street Naming Application in ViewPoint (the building permit system) that has been reviewed by appropriate town departments, including public safety and find the proposed street name, *Fletcher Lane* to conform to the ordinance.

Conclusion: This requirement appears to be met

Vote of 6 in favor 0 against 0 abstaining

NOW THEREFORE the Kittery Planning Board adopts each of the foregoing 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.

Waivers:

16.10.5.2.C.6 waiver for erosion control plan.

16.10.5.2.C.7 waiver for stormwater management plan

16.8. waiver for sidewalks

16.8 waiver for reduced road width (from 18 feet to 16 feet)

16.8.4.6 waiver for travel way not centered within ROW [Board will need to vote on FOF with this amendment]

Conditions of Approval (to be included on the final plan):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
2. List all waivers on the final plan.
3. Add a note stating the ROW will be and will always remain private.
4. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with right-of-way construction to ensure adequate erosion control and slope stabilization.
5. All Notices to Applicant contained in the Findings of Fact (dated: 6/14/2018).

Conditions of Approval (Not to be included as notes on the final plan):

6. Approved street name to be added to the final plan.
7. 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.

219 Notices to Applicant: (not to be included on the final plan)

- 220 1. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated
221 with review, including, but not limited to, Town Attorney fees, peer review, newspaper
222 advertisements and abutter notification.
- 223 2. State law requires all subdivision and shoreland development plans, and any plans receiving
224 waivers or variances, be recorded at the York County Registry of Deeds within 90 days of the
225 final approval.
- 226 3. One (1) mylar copy and one (1) paper copy of the final plan (recorded plan if applicable) and
227 any and all related state/federal permits or legal documents that may be required, must be
228 submitted to the Town Planning Department. Date of Planning Board approval shall be
229 included on the final plan in the Signature Block.
- 230 4. This approval by the Town Planning Board constitutes an agreement between the Town and
231 the Developer, incorporating the Plan and supporting documentation, the Findings of Fact,
232 and any Conditions of Approval.

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

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Vote of 6 in favor 0 against 0 abstaining

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APPROVED BY THE KITTERY PLANNING BOARD ON _____ June 14, 2018_____

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Ann Grinnell, Planning Board Chair

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

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NEW BUSINESS

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Item 4 - 169 State Road – Site Plan Review Sketch Plan Action: accept or deny sketch plan, approve or deny sketch plan. Owner/applicant Olde Northeast Realty, LP requests consideration of a sketch site plan for site changes involving fueling dispensers, canopies and underground fuel tanks at an existing 7-11 convenience store with fuel sales at 169 State Road (Tax Map 14, Lot 36) in the Local Business (B-L) Zone. Agent is David Coonan, Upland Architects, Inc.

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Mr. Coonan, representing 7-11, explained last year there was a safety issue with the existing canopy and a portion was removed. He added the proposed plan is to improve the circulation and safety of the site by adding two new fuel dispensers and a canopy and replace three existing underground storage tanks with two new tanks, which will give more room for parking. The applicant is also proposing to close off one of the entrances and add additional parking spaces. The existing pylon sign is located on public land and will be moved to another location and they will remove the storage container from the east side of the building.

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Ms. Connor explained staff concluded this item come before the Planning Board because the concrete pad will increase in size and a site plan review will be required. She added there has been attempts in the past to solve the internal circulation problems with the property.

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Mr. Coonan explained an E-stop is an emergency push button installed to stop the fuel flow. Mr. White asked if the lighting will be updated. Mr. Coonan responded the applicant is not proposing changing the lighting currently. He also explained there will be flush LED lights on the new canopy and will provide more detail for the next meeting. Mr. Fitch shared his concern

269 of more storage containers being added over time. Ms. Connor explained if storage containers
270 are added again, the applicant would need to do an amendment.

271
272 Mr. Fitch asked of the encroachments to the ROW and if the area can be landscaped. Ms.
273 Connor replied the parking spaces have been there for decades and she is not sure the
274 applicant has the right to do landscaping because the property belongs to the State as part of
275 the roundabout. She added the Board can ask for some landscaping for this site, but it is
276 challenged due to impervious surface. Mr. Coonan will bring the suggestion of working with
277 staff to improve the visual of the site to the applicant. Ms. Connor reminded the Board this is a
278 sketch plan and the applicant will be able to submit site circulation plans after the plan is
279 approved.

280
281 A site walk was scheduled for July 10, 2018 at 10:15 a.m.

282
283 **Mr. Dunkelberger moved to accept and approve the sketch plan application site**
284 **changes involving fueling dispensers, canopies and underground fuel tanks at an**
285 **existing 7-11 convenience store with fuel sales dated February 22, 2018 from Olde**
286 **Northeast, LP for 169 State Road (Map 14, Lot 36) in the Local Business (B-L) Zone.**
287 **Mr. Ledgett seconded the motion.**

288
289 **The motion carried 7-0-0.**

290
291 **ITEM 5–Route 1 – Site Plan/Subdivision Sketch Plan** Action: Accept or deny application.
292 Approve or deny sketch plan. Owner/applicant Michael Estes requests consideration of plans
293 to develop a mixed-use facility, consisting of businesses, elderly housing and residential uses,
294 located south of 506 US Route 1 known as Tax Map 67 Lot 4 in the Mixed Use (MU),
295 Residential – Rural (R-RL), Shoreland Overlay (OZ-SL250') and Resource Protection Overlay
296 (OZ-RP) Zones. Agent is Ken Wood, Attar Engineering, Inc.

297
298 Mr. Wood introduced Michelle Shields, from Shields Architecture, and explained the changes
299 to the plan from the last submittal. This proposal is to have 10 contractor or business spaces
300 with 10 residential apartments over the spaces. There will also be 8 senior units with 16
301 apartments over those. He added most of the uses are special exception and one use is
302 permitted for professional office space. Mr. Wood explained some of the permitted uses are
303 not working for this area and explained why the mixed uses compliment one other.

304
305 Vice Chair Kalmar expressed her concern of the contractor services and the affect to the
306 residential uses. She added this use will generate noise and dust and other associations with
307 those type of businesses. Ms. Shields addressed the Board and explained the contractor
308 spaces will not be large enough for any shops and are more the size of office and managerial
309 space. Mr. Wood explained they will be more than willing to add restrictions if they could move
310 towards approval of the plan. After discussion of the compatibility of the uses, the Board
311 recommended the applicant work with staff and to continue the sketch plan until another
312 meeting. Ms. Connor explained staff's concern with contractor services because of the
313 definition in the Code. Mr. Wood explained they have no problem with staff comments.

314

315 **Mr. Dunkelberger moved to continue the sketch plan presented by owner/applicant,**
316 **Michael Estes for a mixed-use development located at Tax Map 67 Lot 4 in the Mixed**
317 **Use, Shoreland Overlay and Resource Protection Overlay Zones for a period not to**
318 **exceed 90 days.**

319 **Mr. Alesse seconded the motion.**

320

321 Ms. Connor commented the applicant is moving in the residential direction and she
322 recommended the Board schedule a site walk if they choose to.

323

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

325

326 The Board will set a date for a site walk after the July 12th meeting.

327

328

329 **ITEM 6 – Bartlett Road – ROW Plan Review Action:** Accept or deny application. Approve or
330 deny plan. Owner and applicant, Rebecca DeNunzio requests consideration of a right-of-way
331 plan for a 1.42 +/- acre parcel known as Tax Map 62 Lot 24B located behind 76 Bartlett Road
332 (Tax Map 62 Lot 24) in the Rural Residential Zone (R-RL) and the Resource Protection Zone
333 (OZ-RP). Agent is David Ballou, Ballou and Bedell PA.

334

335 Mr. Fitch disclosed he attended college with Mr. Ballou and will recuse himself if the Board
336 would prefer. The Board agreed to let Mr. Fitch remain.

337

338 David Ballou explained they are asking for approval for a ROW and will be requesting a waiver
339 for wetland mitigation. He explained the ROW is exclusive to the back lot owner but there will
340 be a small shared area at the entrance to the road for the front lot. He explained the proposed
341 right of way will include a small wetland that needs to be crossed. Mr. Ballou explained Jim
342 Logan, a soil scientist from Longview Partners, was present as well.

343

344 Mr. Ballou explained the proposed design will minimize the environmental disturbance. He
345 added the utilities are located on Shaydon Lane and Mr. Ballou described the easement. He
346 also explained they decided to go over the wetland instead of using Shaydon Lane because of
347 the existing condition of the road as described in a letter from Atlantic Resource Consultants.
348 The letter stated Shaydon Lane would need improvements before allowing more homes to use
349 it and there would be more environmental disturbance to improve the road than to cross the
350 wetland. He added there is documentation of an existing wetland crossing from 2008.

351

352 The applicant pointed out there is a lot size discrepancy between the deed and survey and Ms.
353 Connor advised to go by the survey, which is 1.42 acres.

354

355 Earldean Wells explained the 2008 memo was the site walk Minutes and described what they
356 had seen on the site walk that determined the crossing was not a historic tow road. She added
357 they also reviewed aerials from 2006 and the Minutes include that as well. Mr. Logan
358 explained he did not see any evidence of the crossing not being a road when he reviewed the

359 area and he believes the road has been there a long time. He added issues did not show up
360 on any of the DEP reviews. Ms. Kellogg reported the Town's file contained a question of the
361 wetland, but no action was taken. Mr. Logan pointed out a letter from September of 2008 from
362 the DEP recognizing the crossing and allowing for the addition of a small amount of fill. Ms.
363 Connor commented the application is requesting a narrow travel way but the letter from
364 Jennifer Harris, from the DEP referred to 20 ft. with two 24 ft. culverts. Mr. Logan responded
365 that he believes Ms. Harris made a mistake and he will get clarity regarding the travel way
366 width. He added two agencies along with the Town will be looking at the plan and wanted the
367 Board to realize it will be reviewed extensively.

368
369 Mr. White asked if sufficient effort of exploring the Shaydon Lane has been done and he
370 believes an alternative access needs to be explored. Mr. Ledgett requested staff write a report
371 to investigate the Shaydon Lane issue.

372
373 Discussion of the waiver request for the wetland mitigation plan ensued. Mr. Dunkelberger
374 pointed out the Board cannot waive the mitigation plan, which is stated in Title 16.9.3.7 D.

375
376 The Board was in consensus to continue this item at the July 12th meeting.

377
378 **Mr. Dunkelberger moved to continue the Bartlett Road ROW plan application of Owner**
379 **Rebecca DeNunzio for a right-of-way plan for a 1.42 +/- acre parcel known as Tax Map 62**
380 **Lot 24B located behind 76 Bartlett Road (Tax Map 62 Lot 24) in the Rural Residential**
381 **Zone (R-RL) and the Resource Protection Zone (OZ-RP) not to exceed 90 days.**
382 **Mr. Ledgett seconded the motion.**

383
384 **The motion carried 7-0-0.**

385
386 **ITEM 7 – Hiltons Run - Street Naming** Action: Accept or deny application. Grant or deny
387 approval of street name. Owner/applicant Debra Lynch requests consideration of naming a
388 new private drive Hiltons Run (Tax Map 41 Lot 14).

389
390 Ms. Lynch explained the road has been in existence since 1962. Chair Grinnell reported the
391 Board has received the recommendations from the Fire Department and the Police
392 Department. The road will be named Hiltons Run.

393
394 **Mr. Dunkelberger moved to accept the street naming application to what is currently**
395 **356, 358 and 360 Haley Road to become Hiltons Run.**
396 **Vice Chair Kalmar seconded the motion.**

397
398 **The motion carried 7-0-0.**

399
400 **ITEM 8 - Board Member Discussion**

401
402 The Board reviewed their summer schedules.

403

404 Mr. Fitch gave an update from the recent Inclusionary Housing meeting. He reported they
405 discussed issues with the accessory dwelling unit changes and the consensus was to give
406 general guidelines to staff who will return with specific wording. He added the owner
407 occupancy requirement will remain and they decided to waive the five-year ownership
408 requirement. Parking is still being discussed along with the size of the houses. They also
409 discussed the definition of habitable area and changed “habitable” to “gross” area. Also, they
410 will take out the limit of units per year because the limit has never been met. Administration
411 will remain the same. Ms. Connor will find out if the changes will come before the Board after
412 the Charette per Chair Grinnell’s request.

413
414 Ms. Connor reported she will be providing samples of how other towns in Maine handle short
415 term rentals for the next Board meeting.

416
417 Mr. Causey will be presenting for discussion the final version of the Foreside Report on June
418 28th. The Board’s previous comments will be addressed. Mr. Causey will provide an executive
419 summary containing comments that did not go into the plan and will be sent out to the Board
420 for review.

421
422 **ADJOURMENT**

423
424 **Vice Chair Kalmar moved to adjourn.**

425 **Mr. Alesse seconded the motion.**

426
427 **The motion carried 7-0-0.**

428
429 The Kittery Planning Board meeting of June 14, 2018 adjourned at 8:23 p.m.

430
431 Submitted by Mary Mancini, Minute Recorder, on, June 21, 2018.

432
433 Disclaimer: The following minutes constitute the author’s understanding of the meeting.
434 Whilst every effort has been made to ensure the accuracy of the information, the minutes are
435 not intended as a verbatim transcript of comments at the meeting, but a summary of the
436 discussion and actions that took place. For complete details, please refer to the video of the
437 meeting on the Town of Kittery website at [http://www.townhallstreams.com/locations/kittery-](http://www.townhallstreams.com/locations/kittery-maine)
438 [maine](http://www.townhallstreams.com/locations/kittery-maine).