

1 **CALL TO ORDER**

2

3 **ROLL CALL**

4

5 Present: Dutch Dunkelberger, Mark Alessi, Ronald Ledgett, Karen Kalmar, Ann Grinnell

6

7 Late arrival: Drew Fitch

8

9 Absent: Russell White

10

11 Staff: Jamie Steffen, Town Planner; Kathy Connor, Interim Town Planner; Adam Causey,
12 Director of Planning and Development; Jessa Kellogg, Shoreland Resource Officer/Stormwater
13 Coordinator

14

15 Advisory: Earldean Wells, Conservation Commission

16

17 **PLEDGE OF ALLEGIANCE**

18

19 **APPROVAL OF MINUTES**

20

21 **Site Walk - July 10, 2018**

22

23 Add Mr. Dunkelberger to those present.

24

25 **Vice Chair Kalmar moved to approve the July 10, 2018 site walk Minutes as amended.**
26 **Mr. Dunkelberger seconded the motion.**

27

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

29

30 **Board Minutes - July 12, 2018**

31

32 Line 5 - add Chair Grinnell

33 Line 26 – change “Vice Chair Kalmar” to “Chair Grinnell”

34 Line 185 - change to “enhanced”

35 Line 73 – edit to state “questioned if mowing will be allowed in the 50 ft buffer area as buffers
36 are normally considered a no-cut, no-disturbance areas.” Delete “done since and exception
37 listed stems that are one inch or less in size”.

38

39 **Mr. Dunkelberger moved to accept the Minutes of July 12, 2018 as amended.**

40 **Mr. Ledgett seconded the motion.**

41

42 **All were in favor and the motion carried 6-0-0.**

43

44 **PUBLIC COMMENT**

45

46 Chair Grinnell opened the public comment segment of the meeting.

47

48 Judy Spiller, 4 Rosellen Drive, Kittery Point, explained she is Kittery's representative to the
49 York River Study Committee who were at a Board meeting a few weeks ago to give a
50 presentation of the build out plan. She added that on Tuesday evening, the Study Committee
51 approved the Stewardship Plan and she or other committee members are willing to come back
52 to answer any questions the Board may have. She explained the study is on the website at
53 www.yorkrivermaine.org, which is the easiest way to read it. Printed copies will be made soon
54 and will be distributed. She explained the next step is designation and added species of
55 concern have been laying eggs in Libby Creek. Ms. Spiller explained the committee looked at
56 the growth in the four towns and the watershed over the last ten years. The committee is
57 recommending using the natural boundaries, not political boundaries, to manage the growth.
58 Kittery is asking for Council resolutions for designation and the Stewardship Plan and Ms.
59 Spiller requested a letter of support from the Planning Board for Council.

60

61 The Board was in consensus to add this item to the second meeting in October for discussion
62 and would like a representative on the York River Study Committee be present. Ms. Spiller
63 shared that all Board members will be getting a paper copy of the study likely in September.

64

65 Shaye Robbins, Haley Road, commented that that new Heron Point Subdivision's stormwater
66 system was constructed nicely. She expressed her concern that the culverts are filling up with
67 water already and may not be large enough. She added there are no new homes built at this
68 time. Chair Grinnell requested Ms. Kellogg look at the culverts.

69

70 There being no further comment, the Chair closed the public segment.

71

72 **INTRODUCTION NEW TOWN PLANNER**

73

74 The Board introduced and welcomed Jamie Steffen, the new Town Planner. Mr. Steffen gave
75 a description of his background and work experience.

76

77 **PUBLIC HEARING**

78

79 **ITEM 1 – Miller Road – Major Subdivision Preliminary Plan Review**

80 Action: Hold public hearing, Approve or deny plan. Owners Paul E. and Peter J. McCloud and
81 Applicant Joseph Falzone request consideration of a 6-lot conventional subdivision on land
82 along Miller Road (Tax Map 59 Lot 20) in the Residential/Rural (R-RL) and Resource
83 Protection Overlay (OZ-RP) Zones. Agent is Ken Wood, Attar Engineering.

84

85 **Vice Chair Kalmar recused herself.**

86

87 Michael Sudak, from Attar Engineering, gave an overview of the proposed plan and explained
88 the road and the lots will have individual wells and septic systems. He also described the
89 proposed stormwater drainage system.

90

91 The Chair opened the public hearing.

92

93 John Viele, 25 Miller Road, explained his property abuts the proposed subdivision. He has met
94 with the owner, Mr. Falzone, and the process has been good. He expressed his concern with
95 the detail and language for the no-cut buffers not being consistent between the plan and the
96 Home Owner's Association (HOA) documents. He added the neighbors want the buffers to
97 remain as natural as possible. Mr. Viele also requested there be a time restriction for ledge
98 removal of 9:00 a.m. to 4:00 a.m.

99

100 Sheila Pinkerton, 36 Miller Road, shared that she appreciates the Board's diligence and added
101 it is important to maintain the look of the road. She agrees with Mr. Viele's points about the
102 no-cut buffers and time restriction for ledge removal.

103

104 Michael Getty, 36 Miller Road, commented that the Board has been very diligent in addressing
105 the issues. The developer and engineering firm have done a good job accommodating issues
106 that have been brought up. He added he would like to be included at the meeting to determine
107 the utility pole placement decision.

108

109 Earledean Wells pointed out the Conservation Commission expects to hear what the applicant
110 is planning to do for Lot 4 that has one test pit for the septic system with no reserve in the no-
111 cut, no-disturb buffer.

112

113 There being no further comments, the Chair closed the public hearing.

114

115 Mr. Sudak explained they ordered additional test pits for Lots 1, 2 and 4 which were performed
116 on Tuesday and those results will be shared with the board at the next meeting.

117

118 Mr. Ledgett requested Ms. Kellogg clarify the Town's standard regarding no-cut buffers. Ms.
119 Kellogg commented it is up to what the Board wants for this project. She explained generally
120 no-cut, no-disturb buffers allow the duff layer to remain, which is a natural, organic compost
121 layer. If the Board would like this treated as Shoreland Zone buffers, trees would not be
122 counted as points if they are less than two inches in diameter. She added, in the Shoreland
123 Zone, selective removal of trees and the understory in certain areas may be permitted, though
124 a no-cut, no disturb buffer would be more restrictive than the shoreland zoning regulations.
125 Mr. Sudak reviewed the language on the original plan regarding clearing and added the
126 applicant agrees to match the language in the HOA documents but does not want the
127 language stricken from the plans regarding clearing for utility requirements.

128

129 After further discussion, the Board decided a permit be required for removal of vegetation and
130 that should be noted on the plans and the HOA documents. The applicant agreed to change
131 Note 10 on the plan to be consistent with the language in the HOA documents.

132

133 The Town's noise ordinance would allow drilling for ledge removal to begin at 7:00 a.m. Mr.
134 Falzone explained they will try to avoid blasting and will use a hammer when possible. He
135 added his preference for ledge removal is 8:00 a.m. to 4:00 p.m. He also added that as hard
136 as they have worked with the abutters, the street will not look the same as it did before.

137

138 In response to Mr. Falzone's question, Ms. Connor explained CMA will be providing a peer
139 review and, if there are no issues, the applicant may be before the Board one more time for
140 final plan approval. Chair Grinnell added that if CMA has concerns, the applicant will need to
141 come before the Board twice.

142

143 The Board was in consensus that the ledge removal be restricted to the hours of 8:00 a.m. –
144 4:00 p.m. and will be reflected in the Findings of Fact.

145

146 **Mr. Dunkelberger moved to approve a special exception for a conventional subdivision**
147 **plan for the preliminary subdivision application dated May 23, 2018 with revisions dated**
148 **June 20, 2018 from owners Paul E. and Peter J. McCloud and applicant Joseph Falzone**
149 **for a 6-lot subdivision on land along Miller Road (Tax Map 59 Lot 20) in the Residential-**
150 **Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones.**

151 **Mr. Ledgett seconded the motion.**

152

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

154

155 **Mr. Dunkelberger moved to approve the waiver request from Section 16.10.5.2.b(2) to**
156 **allow the scale to be 1"=50' instead of 1"=30' for the preliminary subdivision application**

157 dated May 23, 2018 with revisions dated June 20, 2018 from owners Paul E. and Peter J.
158 McCloud and applicant Joseph Falzone for a 6-lot subdivision on land along Miller Road
159 (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay
160 (OZ-RP) Zones.

161 Mr. Ledgett seconded the motion.

162

163 The motion carried 5-0-0.

164

165 Mr. Dunkelberger moved to approve the waiver request from Section 16.8, Table 1C -
166 Sidewalk/Pedestrian Way to not be required the construction of a sidewalk along the
167 proposed private street for the proposed subdivision plan dated May 23, 2018 with
168 revisions dated June 20, 2018 from owners Paul E. and Peter J. McCloud and applicant
169 Joseph Falzone for a 6-lot subdivision on land along Miller Road (Tax Map 59 Lot 20) in
170 the Residential-Rural (R-RL) and Resource Protection Overlay (OZ-RP) Zones.

171 Mr. Ledgett seconded the motion.

172

173 The motion carried 5-0-0.

174

175 Mr. Dunkelberger moved to approve the preliminary subdivision application plan dated
176 May 23, 2018 with revisions dated June 20, 2018 from owners Paul E. and Peter J.
177 McCloud and applicant Joseph Falzone for a 6-lot subdivision on land along Miller Road
178 (Tax Map 59 Lot 20) in the Residential-Rural (R-RL) and Resource Protection Overlay
179 (OZ-RP) Zones with the condition that the CMA comments must be addressed and
180 impervious surface calculations be added and the HOA documents be updated to reflect
181 the no-cut, no-disturb buffer requirement which includes that any cutting of dead, dying
182 or hazardous trees, while allowed, must receive a permit through the Town's Shoreland
183 Resource Officer.

184 Mr. Ledgett seconded the motion.

185

186 The applicant agrees to address the language in Note 10 of the plan to be the same as the
187 HOA documents.

188

189 The motion carried 5-0-0.

190

191 OLD BUSINESS

192

193 **ITEM 2 – Potential expansion of the Neighborhood Mixed-Use Zone (MU-N) formerly**
194 **Business Park Zone (B-PK) Discussion:** Follow-up to letter sent to property owners in March,
195 map of zone boundaries for review.

196

197 The Chair shared the workshop with the Town Council was informative. She added that she
198 would be in favor of the expansion proposal if the height limit of the buildings was reduced.

199

200 Mr. Dunkelberger explained why he is in agreement with the 70-ft. building height limit in the
201 zone. Mr. Ledgett and Vice Chair Kalmar reminded the Board that they have previously
202 approved the zone change recommendation to Town Council and the issue for discussion is
203 the expansion of the boundary.

204

205 Mr. Fitch shared that he does not think the 70-ft. building height is appropriate that close to
206 Route 236 and Chair Grinnell agreed.

207

208 Vice Chair Kalmar suggested scheduling a hearing to listen to the public's opinion before they
209 have further discussion on recommending this proposal.

210

211 Because of Board member schedules in August, the Board decided to hold a special meeting
212 on August 21st.

213

214 **Mr. Dunkelberger proposed to hold a public hearing on the Neighborhood Mixed-Use**
215 **Zone (MU-N) formerly Business Park Zone (B-PK) at a date of August 21, 2018 at a time**
216 **to be determined and appropriately advertised.**

217 **Mr. Ledgett seconded the motion**

218

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

220

221 **ITEM 3 – Draft amendments to Shoreland Zoning**

222 Discussion: Changes proposed to 16.9 (Wetland Setback Table) and 16.7.3.3.2
223 (Nonconforming Structure Repair and/or Expansion).

224

225 Vice Chair Kalmar commented the staff did a good job clarifying the language in the ordinance.

226

227 Mr. Ledgett questioned if language should be added to Section F that no permit will be issued
228 until this approval of the plan for expansion has been recorded. Ms. Kellogg explained the
229 language was taken from the state's Chapter 1000 guidelines for municipal shoreland zoning
230 ordinances and she added Code Staff do not issue building permits until the planning
231 requirements are met and this will be one of the requirements. She added the amendments will
232 be sent to DEP for review before the public hearing.

233

234 **Vice Chair Kalmar moved to hold a public hearing on the proposed amendments to**
235 **16.7.3.3.2 (Nonconforming Structure Repair and/or Expansion) for August 23, 2018.**
236 **Mr. Dunkelberger seconded the motion.**

237

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

239

240 **ITEM 4 – Update on Foreside Study**

241 Discussion: Director of Planning and Development will update the Board on the latest edits to
242 the Study.

243

244 Mr. Causey explained the updated study is in the Board packet and changes were made
245 based on earlier comments. The consultants updated the maps and they are more readable.
246 He added they are still waiting for the electronic version of the study and he will continue to ask
247 for it. He explained this study went through a public planning process along with several
248 business partners in the area and a working group and any changes need to go through the
249 public process. His Executive Memorandum includes an outline of what staff is working on. He
250 informed the Board a survey will be going out to gather opinions from the public. Suggestions
251 of alleviating some of the parking issues were addressed which includes a proposal to change
252 the time limit for parking in certain areas. A map of proposed parking changes has been
253 shared with the business group in the Foreside for feedback and he is working with the Town
254 Manager to get this on the Council's agenda.

255

256 Mr. Dunkelberger reminded Mr. Causey that the Board had recommended appropriate warning
257 lights at crosswalks similar to the system near Rite Aid and the post office. Mr. Causey added
258 the plans for the Walker and Wentworth intersection has been submitted and the construction
259 timeframe is estimated for 2020-2021.

260

261 Chair Grinnell suggested that the Planning Board add this as an agenda item, review the
262 report and write a letter outlining what they believe is important to moving forward. Mr. Ledgett
263 added a lot of effort was put into this report and he expressed his concern of it not being used
264 and forgotten. Discussion ensued of the report fitting into the recodification process taking
265 place in the fall. The Board also discussed the Shipyard Study for the Government and Walker
266 Streets intersection and the need to find out what it encompasses for the Town.

267

268 The Board was in consensus to add this item to the agenda for the second meeting in October.

269

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

271

272 a. Short Term Rental Information

273

274 Intensive discussion ensued of issues with short term rentals located in residential areas.
275 The discussion included if there is a need to implement and support a fee structure and the
276 need to impose regulations in residential areas.

277

278 Mr. Alesse shared he is not sure it is the Board's job of stopping people who are making
279 money on short term rentals. Chair Grinnell explained she has heard of problems and would
280 prefer to be proactive.

281

282 After further discussion, the Board agreed to get the Town Council's opinion. Mr. Causey will
283 bring the Board's request to the Town Manager to find out the best way to get the Council's
284 thoughts.

285

286 b. Planning Board Action Item List

287

288 Board members thanked the staff for updating the list.

289

290 **ITEM 5 – Town Planner Items**

291

292 Mr. Causey shared that an RFP for a consultant for the recodification process was sent out
293 with no replies. He added he will be resubmitting it to a wider net area.

294

295 **ITEM 6 - Adjournment**

296

297 **Mr. Alesse moved to adjourn.**

298 **Mr. Dunkelberger seconded the motion.**

299

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

301

302 The Planning Board meeting of July 26, 2018 adjourned at 7:55 p.m.

303

304 Submitted by Mary Mancini, Minute Recorder, on August 1, 2018.

305

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

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