

**TOWN OF KITTERY
PLANNING BOARD MEETING
Council Chambers**

APPROVED
Thursday, January 22, 2009

Meeting called to order at 6:06 p.m.

Members Present: Russell White, Megan Kline, Douglas Muir, D. Scott Mangiafico, Ernest Evancic
Members absent: Michael Luekens, Joseph Carleton
Staff: Sandra Mowery, Town Planner

Minutes: January 8, 2008

Chairman White moved to approve the minutes as amended

Ms. Kline seconded

Motion carries unanimously

PLANNER'S TIME

The **Town Planner** reported that Legal Counsel responded to the buffering issue at 240 US Route 1, stating that it is the Board's decision. The request is to have the Board schedule a review and make a decision at the February 12, 2009 meeting.

The Board reviewed the Findings of Fact for H&M Realty, LLC to amend an approved site plan and make a lot line adjustment. **Chairman White** read the Findings into the minutes:

WHEREAS H & M Realty, LLC, the Owner of two adjoining parcels of land situated at 4 and 6 Shapleigh Road, will subtract land area from Map 10 Lot 40 and add land area to Map 9 Lot 151, situated in the Local Business 1 (LB-1) and Urban Residential (UR) zoning districts. The Owner's agent is Thomas Harmon with Civil Consultants.

WHEREAS the Application was Determined Complete on January 08, 2009.

WHEREAS a Final Approval with Conditions was granted on January 08, 2009.

Record Plans and other documents considered to be a part of the approval by the Planning Board consist of the following:

- An unsigned copy of the 2001 site plan, entitled H & M Realty Financial & Retail Development, Shapleigh Road and Woodlawn Avenue, prepared by Civil Consultants, dated March 21, 2001.
- A plan entitled Lot Line Adjustment Plan H & M Realty, LLC. Shapleigh Road, prepared by Civil Consultants, dated January 08, 2009.

NOW THEREFORE, based on the entire record before the Board and pursuant to the applicable standards set out in the Land Use and Development Code Zoning Ordinance, the Board makes the following factual findings as required by Sec. **16.36.070.C. Findings of Fact**

1. Action by the Board is based upon the following 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:

e. Traffic. The proposed development will 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. Furthermore, the proposed development will provide adequate traffic circulation, both on-site and off-site.

- Having reviewed this standard we find since the lot line adjustment does not cause physical changes to the site or the use of the site, this standard does not apply.

Vote of 5 in favor 0 against 0 abstaining

h. Aesthetic, Cultural and Natural Values. 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.

- Having reviewed this standard we find since there is no change of use, and no new development or redevelopment proposed, this standard does not apply.

Vote of 5 in favor 0 against 0 abstaining

i. Conformity with Local Ordinances and Plans. The proposed development conforms to duly adopted subdivision regulations and ordinances, the comprehensive plan, and the land use and development codes. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.

- In 2001 the Kittery Planning Board approved a site plan for these two lots which granted offsite parking for the smaller lot on the larger lot. All substantial elements of that approval still apply unless altered subsequently in these findings of fact.
- Having reviewed this standard we find the proposed lots will meet and or exceed the minimum requirements for conformance, with the exception of the parking requirement.
- Per the May 10, 2001 Planning Board approval, parking for the hardware business (Map 9 Lot 151) is provided off site on the parcel that has the banking institution (Map 10 Lot 40).
- This lot line adjustment plan will reverse the offsite parking dependency.
 - a. Parking for the hardware business will no longer be offsite parking.
 - b. Parking for the bank will be offsite, on that parcel containing the hardware business.
- We find no issue with parking as the current uses have been demonstrated to be adequate.
- The exchange of this land area does not create any non-conformity with the Kittery Land Use Ordinance.

Vote of 5 in favor 0 against 0 abstaining

j Financial and Technical Capacity. The developer has adequate financial and technical capacity to meet the standards of this section.

- Having reviewed this standard we find since the lot line adjustment does not cause physical changes to the site or the use of the site, this standard does not apply.

Vote of 5 in favor 0 against 0 abstaining

NOW THEREFORE the Kittery Planning Board has in its Findings of Fact determined that the proposed project will have no significant detrimental impact, and the Kittery Planning Board hereby resolves to grant **H & M Realty, LLC** approval to **perform a lot line adjustment** at the above referenced property contingent upon the following conditions:

Conditions of Approval

1. This approval by the Planning Board is an agreement between the Town and the Owner, incorporating as elements the Owner's application and the Board's Findings of Fact including such conditions as the Board may impose herein.
2. Prior to the signing of this agreement, the Town Planner must review and verify the accuracy of the zoning district boundary lines.
3. All subsequent changes of use for these lots must be referred to the Planning Board for addition review and consideration.
4. All drainage easements must be noted on the recorded deeds.
5. Signing of this instrument by the Planning Board constitutes approval. A period of one year shall be set forth for the guaranty time within which recordation of the deeds and map must be completed.
6. Conditions of this approval will not have been satisfied until a signed and recorded mylar is submitted to the Town Assessor for filing.
7. By vote of the Planning Board herein, the Chairman is authorized to sign the Final Plan and this Findings of Fact on behalf of the Planning Board.

Vote of 5 in favor 0 against 0 abstaining

SO APPROVED BY THE KITTERY PLANNING BOARD ON THE 22nd day of January, 2009.

PUBLIC COMMENT – No public comment

Workshops began at 6:58 p.m.

ITEM 1 - Amendment to Title 16 Land Use and Development Code Zoning Ordinance – Workshop – Shoreland Zoning –The mandatory Shoreland Zoning Act (Act), 38 M.R.S.A. Section 435-449 and the guidelines for the Board of Environmental Protection (Board) require municipalities to adopt shoreland zoning ordinances consistent with, or no less stringent than, the minimum guidelines set forth in the Act and by the Board. The Town administration, endeavoring to incorporate State recommendations for the Shoreland Zoning ordinance proposes to amend *Section 16.08.20 – Definitions, General Development Requirements - Article III. Nonconformance and Section 16.32.490 –Shoreland Zoning.*

ITEM 2 - Amendment to Title 16 Land Use and Development Code Zoning Ordinance – Workshop - Post-Construction Stormwater Ordinance – The mandatory Post-Construction Stormwater Management Ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Kittery, Maine through review of post-construction stormwater management plans and monitoring and enforcement of compliance with such plans as required by federal and State law. This Ordinance establishes methods for post-construction stormwater management in order to comply with minimum control measures requirements of the federal Clean Water Act and State law. The Town administration, endeavoring to incorporate State recommendations for the Post-Stormwater Ordinance proposes to amend Title 16.28.380 through 16.28.500.

Mr. Mark Bergeron, P.E. with Sevee & Maher Engineers, Inc. presided over the workshop. Mr. Bergeron presented the proposed State recommendations and proposed creating a new ordinance Chapter 16.38 – Post-Construction Stormwater Management Ordinance.

Chairman White moved to adjourn

Mr. Muir seconded

Motion carries unanimously

The Planning Board meeting of January 22, 2009 adjourned at 10:00 pm

Submitted by Jan Fisk, Recorder, January 26, 2009