

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

APPROVED
Thursday, March 12, 2009

Meeting called to order at 6:10 p.m.

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

Minutes: February 26, 2009

Mr. Mangiafico moved to accept the minutes as presented

Mr. Luekens seconded

Motion carries unanimously by members present

PUBLIC COMMENT –

Earldean Wells asked if the Board would like to partner with the Kittery Conservation Commission in a \$15-20K grant application to develop a wetland inventory evaluation. Board members agreed to provide a letter of support and partnership. The KCC inquired about the definition of ‘variance’ regarding wetlands and how this will be included in the revised ordinance. The Town Planner will be including this toward the end of the ordinance revision review.

ITEM 1 - Plenary Site Plan – *Preliminary Review continued/Discussion with Action:* B & F Land Development, Owner, proposes to remove the existing building and parking lot and to construct two new office buildings and parking lot on 1.29 acres at 240 US Route 1, located on Map 22 Lot 13 situated in the Commercial 1 (C-1) zoning district. The Owner’s agent is Christopher Baudo, RA.

Item #1 was withdrawn by the applicant.

ITEM 2 - Amendment to Title 16 Land Use and Development Code Zoning Ordinance – *Public Hearing/Discussion with Action* - Save the Village, a citizen’s group, has circulated a petition for the repeal of the 2006 amendment to Section 16.12.070 – Village Residential (VR) zoning district. The representative for Save the Village is Kathryn Davis, a citizen.

Kathryn Davis summarized the repeal request.

Public Hearing opened at 6:20 pm

George Lombardi, Manson Avenue, summarized the language in the VR district and argued that without the requested change, the district could be overdeveloped and lose the village residential identity.

Susan Emery, School Lane, spoke in favor of the proposed zone changes, noting that the area consists of small residences and was not meant to include multi-use facilities.

Lisa Comeau, Halstead Street, spoke in favor of repealing the 2006 amended language, noting that the neighborhood is longstanding and densely populated.

The Chairman closed the public hearing at 6:29 pm

Letters of support were noted from Bill Pagum, dated 3/12/09 and Audrey Wilkinson, dated 3/11/09.

3/11/09
5/11/09

Audrey Wilkinson
53 Woodlawn Ave.
Kittery, Maine 03904
207-439-3884

RECEIVED
MAR 12 2009
BY: *[Signature]*
@ PB

Town Council
Kittery, Maine
03904

Dear Councilors:

I've lived in the Admiralty Village section of town for over 50 years. Our zoning was changed five years ago to accommodate a project that will now be built elsewhere. I'd like our zoning changed back to the way it used to be without any revisions. The village is a special place with many tiny house plots and its unique character needs to be preserved.

Thank you.

Sincerely,

[Signature]
Audrey Wilkinson

RECEIVED
MAR 12 2009
BY: *[Signature]*
@ PB

Bill Pagum
8 Cromwell St.
Kittery, Maine 03904
207-439-5144

5/12/09
3/11/09

To:
Kittery Town Council

From:
Bill Pagum

Subject: Zoning Changes

Dear Councilors:

I wish to see the zoning in Admiralty Village be changed back to the original zoning regulations before modified due to the proposed new Rec Center. The village has always had a special classification due to its high density housing on small lots. Going back to the original zoning will best suit our unique neighborhood.

Thank you for your time.

Sincerely,

[Signature]
Bill Pagum

The Town Planner asked how many signatures had been collected in support of this item and was told that approximately 350 had been received and that they needed 375 to take to a referendum vote.

Mr. Mangiafico asked if research had been done to determine what non-residential uses have been allowed in other residential zones. Discussion followed regarding the compatibility of educational and municipal uses in a residential zone. In this particular case, if the community center closed and was not used for a period of one year, it could not be used again as a community center if the language is changed as proposed. **George Lombardi** responded that the center is only 5,000 square feet and is the largest block of property (excluding open space) in the district and does not see how larger buildings for educational, nursing home or multi-residential dwellings could be located in the neighborhood.

The **Town Planner** noted that the Town Attorney stated that the petition has over 300 signatures of people expecting this repeal. The Board cannot change the petition, requesting removal of the 2006 language, but only decide yes or no. **Mr. Muir** noted that until the petition is ready to take to a referendum vote, there is room for discussion and negotiation. However, the request is sensible as presented.

Lisa Comeau spoke about the original district language stating that it has served the neighborhood well over the years and, because of its density, cannot be compared to other residential districts in the Town. **Mr. Carleton** asked how the residents feel about the existing center. Ms. Comeau and Mr. Lombardi stated that they support the center and adjacent field, and they felt that other residents were also in support.

Mr. Carleton moved to table this item to the next required public hearing on April 9, 2009.

Mr. Mangiafico seconded

Motion carries unanimously

ITEM 3 - Amendment to an Approved Subdivision – Lot Line Adjustment –Public

Hearing/Discussion with Action – John Watts, Owner, proposes a lot line adjustment between lots known as Map 41 Lot 5-A and Map 41 Lot 5-2, situated in the Rural Residential (RR) zoning district at the northeasterly corner of Haley Road and Janah Lane. Map 41 Lot 5-2 also being situated in the Janah Lane Subdivision. Owner and Applicant are the same.

John Watts, applicant, summarized the request and presented a signed petition (3 names: Bernette Holoway, Susan Mason, and Jonathan Watts) which stated, “We have reviewed the survey that was presented to us and agree that this lot line change will benefit all abutters”. Mr. Watts also presented a letter summarizing the request to re-naturalize the rear property line of a home under construction which would providing privacy and increase the property value. To accomplish this, a property line adjustment is required.

Mr. Mangiafico asked if, because this is a minor adjustment, the Planner may call a Public Hearing instead of the Planning Board, which is customary. **Mr. White** noted that he had no issue with this because it is minor. Board members viewed photographs of the area and discussed the request. Mr. Watts stated that he will use larger planting material (hemlock, spruce, fir trees) to promote rapid re-naturalization. Additionally, Mr. Watts will maintain the grass area along Janah Lane that will become part of Ms. Mason’s property, and a maintenance agreement will be created to accomplish this.

The public hearing on this item opened and closed at 7:15 p.m. as there were no persons present to speak for or against the item.

Mr. Mangiafico moved to approve a lot line adjustment between lots known as Map 41 Lot 5-A and Map 41 Lot 5-2, situated in the Rural Residential zone, thereby approving a minor modification to an approved subdivision plan dated June 22, 2006, and a lot line adjustment dated January 22, 2009.

Mr. Muir seconded

Motion carries unanimously

Mr. Watts asked if he could begin work with the approval received. **Mr. Muir** stated that, procedurally, his request is not approved until a Findings of Fact is approved and signed. The Town Planner stated that if the applicant is wishing to secure building permits, he cannot do so until the Findings are complete. However, if he wishes to landscape the area, he could proceed at his own risk. The deeds may be recorded. Because this is a small project, the Findings of Fact will be presented at the March 26, 2009 meeting for approval and signature. Mr. Watts will need to have the Findings included on the plan prior to signing.

Break

ITEM 4 - Sketch Plan — Discussion - Litson Villas, LLC, is the Owner. Dan Dufault of Landmark Construction is the developer. The developer proposes to remove all existing structures and to redevelop the site with five 3-story buildings having a mixed use of retail, office space and residential, situated on Map 8 Lot 15 in the Local Business (LB) and Urban Residential (UR) zoning districts, the parcel area is 5.01 acres. The developer's agent is Joe Cheever of Attar Engineering.

Mr. Carleton advised that he works with Attar Engineering but did not believe this association presents a conflict.

Dan Dufault summarized the planned development and history of the project and introduced the consultants.

Joe Cheever, Attar Engineering, reviewed the project plans, stating they will request a zoning line adjustment of approximately 50 feet; the property is served by public sewer and water and connections will be made prior to completion of paving along State Road; proposed mixed-use development with retail/office use on the 1st floors and residential use on the 2nd and 3rd floors; developer has included more green and open space; DEP site law permit will not be required, but a stormwater permit will be obtained utilizing multiple ponds on-site to treat runoff. Parking lots are located near each structure and there is first level parking proposed in buildings 3, 4, and 5.

Daniela Mobius, Lassel Architects, summarized the proposed building designs, fenestration and exterior lighting and showed proposed interior designs.

Mr. White inquired about the parking and landscape requirements. **Ms. Mobius** stated that there will be significant plantings in the parking areas and street trees in front of the buildings. The use of pervious stone (porous pavement) will also be considered. **Mr. Mangiafico** asked about the proposed "interior parking" and if they should be designated for residential use.

Peter Hedrich, Gorrill-Palmer, stated that parking for office use would be greater during the day with residential use greater at night, creating an opportunity for shared parking on the site. Reviewing the ordinance requirements and ITE studies of parking rates for various uses, a total of 163 parking spaces would be needed. Variations for time of day, use, time of year, etc., this site could utilize shared parking with a total of 137 parking spaces and they are proposing 153 spaces.

Mr. Evancic inquired about snow storage and detention ponds. **Mr. Cheever** stated that they will not store snow in the detention ponds, but will indicate storage sites on the plans.

Earldean Wells inquired about the location and total number of ponds proposed. **Mr. Cheever** stated that on the original layout there were a series of small ponds along the sidewalk. For the

purpose of this submittal, they are not illustrated. There was general discussion about the interior parking and whether they would be considered a structure and whether parking requirements could be met if not shared. **Chairman White** asked that a narrative be prepared outlining their plans in this regard. There will be peer review of the project, including the parking, stormwater and traffic requirements. **Mr. Carleton** asked whether the project needs to be reviewed as a subdivision or whether site review is stringent enough and how the residential units will be used, as condominiums to be sold or as apartments. **Mr. Cheever** will address these concerns.

A site walk was scheduled at 4:30 p.m. on Thursday, April 2, 2009

Mr. Cheever asked about the zone boundary extension and Board's view. **Chairman White** requested that a narrative request be presented for review.

ITEM 5 - Sluiceway Condominiums a Minor Subdivision - Preliminary Review – Tudor and James Austin, Owners, propose a four (4) unit condominium development on a 6.25 acre parcel located at 37 Pepperill Road, situated on Map 18 Lot 22 in the Kittery Point Village (KPV) Zoning District. The Owner's agent is Thomas Harmon with Civil Consultants.

Mr. Carleton left the meeting.

Mr. Harmon provided written response to the March 4, 2009 peer review, reviewed the plan set, and then reviewed the comments presented by peer review engineers. Discussion followed about the limited common area and road and construction standards in regard to public safety. **Mr. White** recommended that additional information addressing limited cutting and vegetation, particularly in the shoreland zone, be included. Items need to be specifically addressed so that development restrictions are clear. **Mr. Harmon** noted that a pier will be added on future plans for Board review. An easement to the pier and its use would need to be included in the condo documents. A permit for one pier was extended to March 6, 2010.

Mr. Harmon and Board members discussed whether the road on the project was a ROW or a driveway, and to what standards it should be developed. A site walk was scheduled for Monday, March 23, 2009 at 4:30 p.m.

Earldean Wells asked when the shoreland zone ordinance would take effect. The Town Planner said that the deadline is June, but the State has indicated that if Kittery needs an extension, they would be amenable because it is underway. The ordinance would not go into effect in Kittery until the Council accepts it. Further, if the State does not accept or reject the ordinance within 30 days of submittal, it is considered approved.

PLANNER'S TIME

1. The Town Planner asked if the Board would prefer she not set public hearings. Mr. Luekens stated he wanted to be sure that all applicants were treated fairly in the calling of a public hearing. In this case, the application was minor and the Planner's decision was justified.
2. Liberty Lane Subdivision – Jerry Davis requested the Board's consideration of running power lines above ground vs. underground at a small subdivision due to the high cost of buried lines. The Board requested that the applicant bring a plan showing the location of the proposed above ground poles to help illustrate the impact on the surrounding forested area.
3. The postponed site walk (March 12, 2009) for the Roylos subdivision (32 Haley Road) will be held at 4:30 p.m. on Thursday, April 9, 2009.

Mr. Luekens moved to adjourn

Mr. Muir seconded

Motion carries unanimously

The Planning Board meeting of February 26, 2009 adjourned at 9:30 pm

Submitted by Jan Fisk, Recorder, March 17, 2009