

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

APPROVED
Thursday, June 25, 2009

Meeting called to order at 6:03 p.m.

Members Present: Russell White, Ernest Evancic, Michael Luekens, George Burke, Joseph Carleton, Douglas Muir, D. Scott Mangiafico
Members absent: none
Staff: Sandra Mowery, Town Planner

Minutes: Planning Board Meeting, June 11, 2009

Mr. Carleton moved to accept the minutes as amended

Mr. Luekens seconded

Motion carries 6 in favor; 0 against; 1 abstention

PUBLIC COMMENT – There was no public comment.

Item 1 - Amendment to Title 16 Land Use and Development Code - Workshop -

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. This amendment to Title 16 incorporates the most current State shoreland zoning ordinances into the Kittery Ordinance. The Town administration, endeavoring to incorporate State recommendations for the Shoreland Zoning ordinance proposes the following:

Amendment to Chapter 16.04 – General;
Amendment to Section 16.08.20 – Definitions;
Amendment to Chapter 16.16 – Administration and Enforcement;
Amendment to Chapter 16.24 – Special Exceptions and Variances;
Amendment to Chapter 16.28 – General Development Requirements;
Delete Section 16.32.490 – Shoreland Zoning; and
Add Chapter 16.34 – Shoreland Zoning.

Mike Asciola, planning staff, presented the draft shoreland zone map and the general development zone map. Staff will complete the maps to include with the shoreland ordinance for submittal to Council. Members received the latest version 7, reviewing language revisions by Councilor Beers and Attorney McEachern. The proposed use of the terms ‘conforming’ and ‘non-conforming’ was discussed at length, and revisions to the amendment were accepted. **Duncan McEachern**, town attorney, participated in Board discussions regarding the amendment, definitions, and review processes under the new ordinance. There was significant discussion regarding variance and appeal language and processes, and participants reviewed recommended language provided by Earle Wells of the Conservation Commission. Ordinance language covering the expansion, repair, and reconstruction of nonconforming structures was reviewed and modified. **Mr. Mangiafico** will meet with Mike Asciola to review the General Development Zone areas and standards.

ITEM 2 – Workshop – An Amendment to Title 16 Land Use and Development Code – Section 16.08.020 – Definitions, Accessory Dwelling Units. This amendment proposes add a section on accessory dwelling units. Accessory dwelling units are an important form of housing that contributes to the character and diversity of housing opportunities. The intent is to provide workforce housing, housing for family members, students, elderly, in-home health care providers, the disabled and others, at below market rental rates within existing neighborhoods, to protect the character of the neighborhoods, and to respond to the Comprehensive Plan in regards to diversity in housing, as well as affordable housing.

Will Peirce spoke to the Board about grandfathering existing intra-family dwelling unit apartments, or those that may simply have been established outside of ordinance provisions. **Don and Belinda Kolika**, 121 Dennett Road, spoke to the Board about the proposed ordinance, stating they would like to legally rent an existing one bedroom intra-family dwelling unit, formerly used for an elderly parent. Board members discussed grandfathering of existing units to allow for rentals and how that would be developed. **Mr. Muir** stated that the issue of grandfathering is premature at this time, especially after the Board spent a considerable amount of time discussing conforming and non-conforming structures and uses. However, an argument could be made for Council consideration. Members reviewed the accessory dwelling unit (ADU) language, suggesting the following:

1. an ADU must not exceed 800 sf, or 50% of the size of the primary dwelling, whichever is larger, and the minimum size will not be smaller than 400 sf;
2. the property must be occupied by the owner, at least seasonally;
3. remove the language on deed restrictions;
4. building coverage will be as allowed by the underlying zoning district;

The Town Planner will submit a revised ADU ordinance for Board review, omitting the intra-family dwelling unit language at this time.

Mr. Mangiafico moved to adjourn

Mr. Muir seconded

Motion carries unanimously

The Planning Board meeting of June 25, 2009 adjourned at 9:30 p.m.

Submitted by Jan Fisk, Recorder
June 29, 2009