

Heather Ross

From: Amber Harrison
Sent: Thursday, June 13, 2019 1:55 PM
To: Richard Lundborn
Cc: Mark; Jeffrey J. Clark Esq. (jclark@clarkandhowell.com); Heather Ross; Dylan Smith
Subject: RE: Kittery Indian - Review of revised plans in relation to side and rear parking
Attachments: 19052311300.pdf; 19052311301.pdf

Hi Rick,

The Code Enforcement staff has reviewed the Kittery Indian site plans (attached). The concern is that the proposed parking appears to be non-compliant with the standards under article 6.3.2. of the Town's Zoning Ordinance. Article 6.3.2. states:

6.3.2 Parking

A non-residential use shall provide an adequate amount of parking for the proposed use, reference Article 15, Town Zoning Ordinance, to ensure public health, safety and welfare. The design and layout of the parking area shall be harmonious to the use, structures and site and to abutting uses, structures and sites. The Planning Board encourages creativity in the design of all parking areas to enhance site appearance, enhance how the site functions, reduce the total amount of area devoted to parking, reduce the scale and bulk of parking areas, and encourage joint use parking between adjacent sites. The design and layout shall conform to the following standards. The Planning Board may allow exceptions to these standards to foster creativity and harmony in layout of the parking areas.

6.3.2.1 A non-residential use which obtains a Route One Use Permit after November 5, 1996 and which occupies a structure constructed after November 5, 1996 shall strictly comply with parking requirements identified in Town Zoning Ordinances, Section 5.2.4.

6.3.2.2 A non-residential use which obtains a Route One Use Permit after November 5, 1996, and that occupies a structure constructed prior to November 5, 1996 that proposes to expand the existing use or structure or change the use, that cannot fully satisfy the parking layout requirements identified in Town Zoning Ordinances, Section 5.2.4, shall satisfy these layout requirements to the greatest extent practical. The Planning Board shall determine when a use cannot satisfy Section 5.2.4 requirements and any relaxation permitted to the standards identified in 5.2.4. The Planning Board may require additional or larger plantings, fencing, walls, landscape berms, bufferyards, and similar measures to compensate for the use not satisfying 5.2.4 requirements.

Footnotes for article 5.2.4. for the Route 1-3 zone states:

g Provided all parking spaces for a non-residential use are located to the side or rear of the structure, and no parking spaces are located closer to the front lot line than the front setback of the structure occupied by a non-residential use. A non-residential use existing as of November 5, 1996 that does not meet this setback requirement shall not locate any new parking closer to the front lot line than the existing structure occupied by the non-residential use.

h A maximum of twenty percent, but no more than ten parking spaces, are permitted directly in front (across front of the structure from side wall to side wall) of the structure occupied by a non-residential use if this structure is setback a minimum of eighty feet from the front lot line. All other bulk/common parking spaces, the remaining eighty percent of spaces or more than ten spaces, shall be located to the sides and rear of this structure and shall not be located closer than seventy feet to the front lot line. A non-residential use existing as of November 5, 1996 that does not meet this setback requirement shall not locate any new parking closer to the front lot line than the existing structure occupied by a non-residential use.

We also have concern with the your assumed non-conforming status. Per article 6.3.2.2., if the use isn't occupying the structure then strict compliance with the parking standards under 5.2.4. is required. 6.3.2.2. is stated above and refers to 5.2.4. At this time, the Code office would not issue a permit based upon the proposed plan as it does not meet the zoning ordinance requirements under 6.3.2. and 5.2.4. footnote "g". You are welcome to appeal this email to the BOA or pursue approval with the Planning Board but as proposed it does not appear the parking meets the ordinance requirements. Please let me know if you have any questions.

Thanks,
Amber

[Amber Harrison](#)