

ITEM 1 - ROLL CALL

Present: Steve Beckert – Chairman, Jeff Duncan – Vice Chairman, Dennis Lentz, Larry Bouchard, and Greg Whalen.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 - REVIEW AND APPROVE MINUTES AND INVOICES AS NEEDED

MOTION:

Dennis Lentz made the motion to approve the minutes of the September 4th, 2012 Planning Board meeting, as amended.

Larry Bouchard seconded the motion.

Vote: 3-0 (Greg Whalen abstained due to absence from the meeting), **Chair concurs.**

ITEM 5 - REVIEW OF "NOTICE OF DECISION" LETTERS, AS NEEDED

The Board reviewed the decision letter for Martin and Veronica McNerney and issued it as written.

ITEM 6 - PUBLIC APPLICATIONS OR PLANNING BOARD BUSINESS TO BE CONSIDERED

A. 10-minute public input session

Public input session opened.

No comments.

Public input session closed.

- B. Public hearing – and continued review of an application for a Request for Planning Board Action to amend a previously approved conditional use permit (PB05-25) to allow the processing and wholesaling of firewood in an existing structure in addition to the previously approved land uses. Applicant is Sanborn's Auto Sales & Salvage, LLC (mailing address: 276 H.L. Dow Highway, Eliot, ME 03903). Owner is Eliot Recycling Services, LLC (mailing address: 276 H.L. Dow Highway, Eliot, ME 03903). Property can be identified as Map 37/Lot 9 and is located at 276 H.L. Dow Highway. (PB12-13)**

Linda Corbin, applicant, stated that due to the economy, revenues from her business were down by about 75% and so she would like to start selectively cutting and splitting firewood from the property. If successful, she plans to buy timber from outside vendors. She explained that all firewood would be manually cut and split using a wheel crusher

that had been converted into a splitter and stated that she understood that if she were to convert to a wood processing machine that she would need to come back before the Planning Board for an amendment to her permit. She stated that no structural changes are proposed and that all firewood processing would be done inside the existing building shown on the plans. Processed firewood would then be stored on a portion of an existing concrete pad, which she identified on the site plan.

Steve Beckert explained the rules of a public hearing.

Public hearing opened.

Mike Lewis of York Woods Tree Service stated that he came to speak in favor of the application and that he had no concerns about it. He stated that there are several operations such as this one already in existence in Eliot and that there did not seem to be any environmental concerns.

James Roy, 24 Surrey Ln., stated that he was an abutter to the project and did not have an issue with the proposed wood processing facility. He stated that his concerns were about a buffer of trees that had been cut along his property line, which were supposed to remain as part of the original conditional use application. He stated that he went to the Code Enforcement Officer with his complaints but that nothing had been done. He stated that he understood this was a different project than the original permit and that the Planning Board could not deny this project because of an unrelated code violation but he was not sure where to take his complaint.

Craig Estes, 29 Surrey Ln., stated that he was also an abutter to the project and that the buffer of trees along his property line has been compromised also. He stated he has become frustrated with the process of getting someone from the Town to take his complaint seriously. He stated that Linda Corbin asserts that the trees along the buffer had only been selectively cut; however, in his opinion they had been clear-cut. He stated that his attempts to resolve this with the Code Enforcement Officer had been unsuccessful.

Steve Beckert stated that if the abutters had concerns about the Code Enforcement Officer that they would need to take them to the Board of Selectmen. He stated that the Planning Board could not deny an application because of a code violation, as they have no enforcement authority. He explained that the Planning Board reviews applications based on the ordinances as they are currently written. Once the Planning Board approves a project it is the Code Enforcement Officer's responsibility to ensure all conditions of approval are met and that no other code violations exist.

Craig Estes asked how he should make the Board of Selectmen aware of his concerns.

Steve Beckert advised the applicant to write a letter to the Board of Selectmen detailing his concerns and that they would take it up at one of their meetings.

Craig Estes asked if there was anything that could be done about the noise issue.

Steve Beckert stated that noise issues are also the responsibility of the Code Enforcement Officer.

Craig Estes asked how the Planning Board could approve another permit for the property when there are known code violations going on.

Steve Beckert stated that the Board relies on the Maine Municipal Association's Planning Board manual for guidance on matters such as the existence of code violations on a property currently under review by the Planning Board. He read the portion of the manual as follows:

"The fact that the property involved is already the subject of other code violations would not constitute a basis for denial, absent language in the ordinance to that effect (Bauer v. Town of Gorham)"

Craig Estes asked the applicant through the Chair if her good faith intentions were to restore that buffer.

Linda Corbin stated that the ordinance says the buffer can be trees, berms, etc. and that she has photographs showing berms over 20' in height. She stated that she would be willing to restore the berm and continue it all the way across.

Craig Estes stated that a berm would not do anything to shield him from seeing the top of Linda's building from his bedroom window.

Steve Beckert stated that these issues are not within the purview of the Planning Board and again suggested the abutters take their concerns to the Board of Selectmen for resolution.

Public hearing closed.

Dennis Lentz asked what the hours of operation would be.

Linda Corbin stated that the hours of operation would be 7:00 AM – 5:00 PM Monday through Friday and 8:00 AM – 1:00 PM on Saturdays.

Dennis Lentz asked if the public would be allowed onsite.

Linda Corbin stated that there would be no public access to the site.

Larry Bouchard stated that Sec. 45-290 shows "Firewood sales" as a prohibited use in the Commercial/Industrial zone and asked how the Planning Board could approve it.

Kate Pelletier stated that the use the applicant applied for is "Wholesale," which the Board agreed was appropriate at the last meeting. She stated that "Wholesale" is allowed in the Commercial/Industrial zone with Site Plan Review and noted that several other applicants with similar businesses were approved as "Wholesale" rather than "Firewood sales."

Jeff Duncan stated that the Board received a letter from the Fire Chief dated December 3rd who had the following comments:

- A complete review of fire safety conditions and compliance dating back to Seward Construction's occupancy.

- A complete inspection of the property by Maine DEP for compliance with applicable rules, regulations and laws pertaining to its continued or intended use.
- The new use comply with applicable sections of NFPA 1, Chapter 31 (applicable sections provided to the applicant and are part of the record) and inspection by the Eliot Fire Chief and a Maine Forest Service Representative if necessary prior to the start of operations.

Linda Corbin stated that DEP had just inspected the property last week and that she could provide an email from them confirming that.

Greg Whalen asked if the applicant had discussed with the abutters the idea of reestablishing the buffer.

Linda Corbin stated that they had discussed the buffer to some extent. She stated that she was upset that someone had told Jim Roy that the buffer was cut as an act of revenge for complaining though. She stated that she has never received a stop-cut order or any indication at all that there was an issue.

Dennis Lentz stated that in James Roy's letter to the Planning Board dated November 19th, 2012 he indicated there were no overhead doors on the existing building where the proposed activities will take place. He asked if he mentioned that because he was concerned about noise.

James Roy stated that he mentioned it because it was part of the original approval for this property.

Kate Pelletier asked that the Board impose a condition of approval that the applicant provide a revised, full size site plan prepared by a professional engineering depicting all features and activities on the property, including the proposed firewood processing use.

Steve Beckert asked if the Board had any additional comments or questions for the applicant.

The Board had no additional comments or questions for the applicant.

MOTION:

Jeff Duncan made the motion to approve the application for the processing and wholesaling of firewood, subject to the following conditions of approval:

1. The property may be developed and used only in accordance with the plans, documents, materials submitted, and representations of the applicant made to the Planning Board. All elements and features of the use as presented to the Planning Board are conditions of approval and no changes in any of those elements or features are permitted unless such changes are first submitted to and approved by the Eliot Planning Board.
2. Copies of approved permits from the Maine DEP and the US Army Corps of Engineers (if applicable) shall be provided to the CEO before construction on this project may begin.
3. This permit is approved on the basis of information provided by the applicant in the record regarding his ownership of the property and

boundary location. The applicant has the burden of ensuring that he has a legal right to use the property and that he is measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden. Nor does this permit approval constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title issues. The permit holder would be well advised to resolve any such title problems before expending money in reliance on this permit.

4. The applicant authorizes inspection of the premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.
5. No retail sales of firewood are permitted as part of this approval.
6. All previous conditions of approval associated with PB05-25 shall apply.
7. Prior to the start of operations, the applicant shall demonstrate compliance with applicable operational and safety controls per NFPA 1, Chapter 31 (2009 edition) per the December 3rd, 2012 memo from the Eliot Fire Chief.
8. Prior to the start of operations, the applicant shall submit to the Code Enforcement Officer a revised site plan (one (1) full size and one (1) reduced to 11" x 17"), prepared by a professional engineer, incorporating all revisions as approved by the Planning Board.

Dennis Lentz seconded the motion.

Vote: 3-1 (Larry Bouchard opposed), Chair concurs with the majority.

Steve Beckert explained the 30-day appeal period.

C. Review November 10th, 2012 correspondence from the Eliot Conservation Commission regarding reclassifying IF&W moderate and high value rated freshwater wetlands currently zoned Resource Protection to Stream Protection as permitted by a May 5th, 2012 Maine Department of Environmental Protection rule change.

Jeff Duncan explained that the Conservation Commission had submitted a letter to the Planning Board regarding the proposed changes to the Resource Protection district. They recommend leaving the 250' buffer intact.

Steve Beckert stated that a March 5th meeting would be held with the Conservation Commission and someone from IF&W to discuss the pros and cons of such a change.

ITEM 7 - ACTION ITEM LIST

None.

ITEM 8 – CORRESPONDENCE, OTHER AS NEEDED

Steve Beckert stated that the Board needed to vote on whether or not they would like their meetings video streamed.

MOTION:

Jeff Duncan made the motion not to video stream Planning Board meetings.
Dennis Lentz seconded the motion.

Discussion:

Larry Bouchard asked if the Selectmen had given the Boards and Committees the option not to record the meetings.

Steve Beckert stated that the Selectmen have recommended meetings be video streamed but are not requiring it.

Jeff Duncan asked Kate Pelletier if the Board of Appeals recorded their meetings.

Kate Pelletier stated that they have opted not to stream their meetings.

Vote: 4-0, Chair concurs.

ITEM 9 - SET AGENDA AND DATE FOR NEXT MEETING

The next regular Planning Board meeting was scheduled for December 18th, 2012.

ITEM 10 – ADJOURN

MOTION:

Dennis Lentz made the motion to adjourn at 8:27 PM.

Jeff Duncan seconded the motion.

Vote: 4-0, Chair concurs.

Stephen Beckert, Chairman

Date approved: _____

Respectfully submitted,

Kate Pelletier, Recording Secretary