



**;ITEM 1 - ROLL CALL**

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

Also present: Kate Pelletier, Planning Assistant.

Absent: Melissa Horner – Alternate (excused), Dutch Dunkelberger – Alternate.

**ITEM 2 – PLEDGE OF ALLEGIANCE**

**ITEM 3 – MOMENT OF SILENCE**

**ITEM 4 – REVIEW AND APPROVE MINUTES, AS NEEDED**

Mr. Lentz moved, second by Mr. Duncan, to approve the minutes of May 5, as amended.

**VOTE**

**3-1 (Mr. Bouchard abstained)**

**Chair concurs**

**ITEM 5 – REVIEW “NOTICE OF DECISION” LETTERS, AS NEEDED**

- **Mickey – Shoreland Zoning Permit (PB15-04)**

This was accepted as written.

- **Greener – Home Business Permit (PB15-02)**

This was accepted as written.

- **Whitaker – Home Business Permit (PB15-05)**

This was accepted as written.

**ITEM 6 – PUBLIC APPLICATIONS OR PLANNING BOARD BUSINESS TO BE CONSIDERED**

**A. Continued Review of a request for Planning Board Action to amend a previously approved Site Plan (PB12-10) for a 38-unit elderly housing facility at the Eliot Commons by adding covered parking spaces and extending the sidewalk to the Post Office entrance. Applicant/owner is Sea Dog Realty, LLC (mailing address: 86 Newbury Street, Portland, Maine 04101). Property can be identified as Map 29/Lot 27 and is located in the Commercial/Industrial zoning district. (PB15-07)**

Mr. Beckert said that the PB should have received a revision that took care of some of the questions and concerns from the last meeting, which revision was stamped May 7, 2015.

Mr. (Ed) Brake, Attar Engineering, gave a quick summary from the previous meeting and said that the key change regarding what Mr. Dunkelberger previously brought up regarding a portion of land that was deeded to Baran Place, is highlighted (shaded area) on the revision, the setbacks have been updated but they didn't change any of the proposed layout on the site.

Mr. Lentz asked for clarification on whether that shaded area is deeded to Baran Place, or not.

Mr. Brake said that it is.

Mr. Bouchard asked if there are any changes that need to be reviewed by the Fire Department.

Mr. Beckert said no; that the footprint of the building didn't change.

Ms. Pelletier said that the Fire Chief does have a copy of the site plan.

Mr. Whalen asked if these revisions were sent over to Fire and Police, etc. and did we get comments back.

Ms. Pelletier said yes and that we have not received any comments back.

Mr. Duncan moved, second by Mr. Lentz, that the Planning Board accept PB15-07, as presented, with the same terms and conditions as was applicable to the original application.

**VOTE**

**4-0**

**Chair concurs**

NOTE: Funding stream change will be noted in the Findings of Fact.

Mr. Beckert said that there is a 30-day period by which the PB decision can be appealed by an aggrieved person or parties – move forward but move forward cautiously.

**B. Application for Site Review to construct a 4,000 sq. ft. 'Professional office' building at 814 Harold L. Dow Highway. Applicant is Rebekah Godek (mailing address: 100 York Woods Road, South Berwick, ME 03908). Owner is Loriann Harvey (mailing address: 35 Woodland Hills, South Berwick, ME 03908) Property can be identified as Map 79/Lot 22 and is located in the Rural zoning district. (PB15-08)**

Ms. (Rebekah) Godek was present for this application.

Mr. Beckert asked her to briefly go over what she was seeking to do.

Ms. Godek said that we own a party rental business; that we rent bounce houses and water slides and mechanical bulls and all kinds of things like that. She added that we actually started our business in Eliot; that we've been leasing space for the past eight years and, as we were outgrowing the space where we were, we really wanted to stay on Route 236; that the opportunity came up to purchase this property. She said that we would like to build a facility that is large enough to basically store our rolled inflatables; that they look like big vinyl sleeping bags and store them on pallet racking; that they were looking for ample parking for our trailers and various vehicles.

Mr. Beckert said that this is a proposed 50'X80' building behind the existing 24'X44' building, which was the Roto-Rooter business.

Ms. Godek said that that was correct.

Mr. Lentz asked if the existing building would also be used.

Ms. Godek said yes.

Mr. Lentz asked, regarding the driveway off of Ambush Rock Road, how is that going to get to your parking in the back.

Ms. Godek said that there is an existing driveway; that she wasn't sure what to call it but people obviously drove around to the back where we would be driving in.

Ms. Pelletier said that the applicant is working with Ambit Engineering and will have a full site plan for you for the new building; that this is just a sketch plan.

Mr. Bouchard asked if this building is for storage.

Ms. Godek said yes.

Mr. Bouchard asked why we wouldn't call it a warehouse.

Ms. Godek said that she thought it had to do with codes for uses that are allowed in that area.

Mr. Bouchard asked how we made it a professional office.

Ms. Pelletier said that that is what we usually call stuff like that; that a business office is like a plumber who stores all of his parts and equipment in one place and does the books there, too. She added that 'warehouse' is not an allowed use there but 'professional office' is; that there is not a definition for either.

Mr. Duncan said that he thought that common sense would say that storage is warehousing and professional offices would be office space.

Ms. Pelletier said that she would argue that it is not solely a warehouse; that there is a business operating out of there.

Mr. Beckert clarified that Ms. Godek's entire business would be operating out of the building; that you will have your office there and keep your books there; that everything would be self-contained for the business and would be on that property.

Ms. Godek said yes. She added that 'retail' didn't quite fit because we don't have customers come in.

Mr. Whalen asked her if she was purchasing the entire property with the existing building on it.

Ms. Godek said yes.

Mr. Whalen asked what was in that existing building now.

Ms. Pelletier said that there is a small office, a bathroom, and a three-bay garage; that she thinks there's a lift in there, as there was an auto repair in there at one point.

Ms. Godek said that they are a seasonal business so we will primarily run from May through October; that we have had a few people put bouncy houses down on the snow; that we have a smallish number of employees – three or four.

Mr. Whalen asked if there were bathroom facilities in the new building.

Ms. Godek said no, not at the time that we build it. She added that we are hoping to rough in plumbing so that, sometime down the road, we might be able to do that.

Ms. Pelletier said that she actually has to; that she thinks anything over 3,000 square feet requires Fire Marshall Review, which means compliance with all of those codes.

Ms. Godek said okay.

Mr. Whalen commented that he saw that this property has an existing septic field so maybe she could try to tie into that. He added that the civil engineer would guide her accordingly.

Mr. (Russ) McMullen said that we had it tested and it is a working system; that there is a well on the property.

Mr. Lentz asked what kind of vehicle traffic would be going in and out.

Ms. Godek said that we have pickup trucks and landscape trailers that we use; that typically the guys will come and load up in the morning and go out all day long, then come back and park; that they aren't actually there very much.

Mr. Bouchard said that he was having a really hard time with this – with no bathroom, they are building a warehouse and calling it a professional office; that it is in the Rural Zone. He asked where the C/I boundary was, is that the edge of it right there.

Ms. Pelletier said no; that the Suburban Zone also runs through Route 236 before you get to the Rural Zone down there. She added that, if you look at the Table of Land Uses and the intensity of land uses that are allowed on Route 236 even in the Rural Zone, she didn't think it was out-of-line at all. She added that her problem with this Table of Land Uses, as you all know, is that there are 150,000 uses on here and none of them are defined so you can stick it in any category you want to; that if you had to defend this on appeal it probably wouldn't hold up too well but there are no definitions for these things; that she is trying to use common sense and trying to be reasonable. She said that this is not a retail operation and not a high-traffic situation.

Mr. Bouchard said that he understood that and he is not trying to, in any way, deny the project or think that it shouldn't happen there; that if we follow the ordinances it's...we always seem to make...let's call it this when it isn't this at all.

Ms. Pelletier agreed.

Mr. Bouchard asked what the building would look like, if it would have windows and the like.

Ms. Godek said that it would most likely be a steel building with two bay doors and two regular doors.

Mr. Lentz asked her if she was planning to heat it.

Ms. Godek said yes, at some point; that this is really the very beginning of the project for us and we are new to the process so we are looking to the Board and the Town for help and advice, as needed.

Mr. Whalen asked what the plan was for getting into and out of the property, are you going to use just the existing curb-cut off Ambush Rock Road.

Ms. Godek said yes they would; that there was no curb-cut off Route 236. She added that they would drive around the front of the existing building and to the side of the where the new building would be located. She added that, having the pickup trucks with the trailers behind, they couldn't drive straight in off the road; that we will have to swing around that building.

Mr. Whalen asked if she was having a drive-in door so that she could drive into the building or a loading dock.

Ms. Godek said she would have a drive-in door.

Mr. Beckert asked if the PB was still struggling with the 'Professional Office' designation.

Mr. Lentz said that he was but he didn't know what to do about it.

Mr. Beckert said that the PB needs to decide if they want to accept that use, as listed, and whether you are going to accept what's before you as Sketch Plan stage.

Mr. (John) Chagnon asked how what was there now fit.

Ms. Pelletier said that she believed that was under 'business office' but she will pull that up.

Mr. Chagnon said that it seemed the Roto-Rooter was similar in that they had a business office and equipment there that went out to sites and then came back.

Mr. Beckert said that, based on its last use, it could be considered a professional office or business space because it housed an office; that it wasn't retail, people weren't coming there for the service but the service was going out.

Mr. Lentz said that 'business office' would work pretty well, too.

Ms. Pelletier said that they approved Roto-Rooter as retail with office space.

Mr. Duncan said that he, personally, has a problem with a 'warehouse', which to him sounds like what this is.

Mr. Whalen said that he is trying to make it work; that he is just cross-referencing. He added that it is interesting that we have apparently made an allowance for manufacturing in Rural with a special exception.

Ms. Pelletier said the special exception was Site Plan Review.

Mr. Whalen asked how you adjudicate that and 'warehousing' says no; that that doesn't make any sense to him, whatsoever.

Ms. Pelletier said that all the zones are mixed-use zones and you can see the levels of intensity in those zones change from one to another to some degree, anyway; that they don't allow industrial in the rural areas but they do allow retail in the rural areas if it's on Route 236, but only if it's on Route 236; that it is hard to justify without any definitions, one way or the other.

Mr. Duncan suggested a question. He said to assume she wasn't here for this building but just a change of use to the site – from Roto-Rooter to office activity related to rental of playground equipment or whatever you want to call it. He added that he didn't think we'd have a problem with the building, itself, that currently exists changing use, would we.

The PB agreed that they would not.

Mr. Duncan asked if it was possibly we could consider the primary use of the lot – the existing building - a change of use and the new building an accessory.

Ms. Pelletier said yes.

Mr. Whalen said that he could support that.

Mr. Duncan said that the question, then, is what the best code is if you go for the use of the lot, itself.

Mr. Beckert suggested 'retail, rental' with a business office because they are going to have their office and everything to do with the business there.

Mr. Duncan said that, so then, it's basically a business office.

Mr. Beckert said that that is what he would say.

Ms. Pelletier said that you also have the option in the Table of Land Uses of doing 'a use similar to'.

Mr. Duncan said that he would feel better with 'business office' rather than 'professional office' and, maybe, it's the current use that was approved, which is 'retail, business office'; that it sort of stays the same category.

Mr. Whalen said that it says 'retail stores, local, other'; that we could define 'other' to accommodate the expansion or extension.

Mr. Beckert asked the PB what they wanted to see the application titled as for use.

Mr. Whalen asked what 'local' meant.

Ms. Pelletier said that she thought it meant no franchise, not a Walmart or Target.

Mr. Lentz asked if 'other' could be a business office.

Ms. Pelletier said that she thought that was a justifiable position but there is no definition one way or the other; that she thought it was reasonable.

Mr. Whalen said that he thought they had to kick out 'professional office'; that that's a misnomer and leads us down a path that doesn't accomplish what Ms. Godek wants, and he doesn't think it meets the definition, anyway. He asked if we can amend this tonight.

Ms. Pelletier said that they could with the applicant's permission.

Mr. Beckert asked if he is hearing that the PB wants the application to state the use as 'retail/business office'.

Mr. Lentz said that he would accept that.

Mr. Bouchard said that he didn't agree but, if the PB makes it a motion, then they can take a vote.

Mr. Duncan asked what his problem was with that.

Mr. Bouchard said that it's a warehouse. He added that he knew we were trying to make it work but he can't vote on that, that it's just not what it is. He said that we might as well not even have a PB if we're going to take stuff and just make it work all the time. He added that if we didn't want this we have a hundred reasons why it shouldn't be there or shouldn't approve it; that we are trying to find one reason to approve it. He added that he is not trying to kill it, but, for himself, he can't; that somebody can make it a motion and we can vote on it. He said that if it was presented in a different way or presented not as it was presented but...

Mr. Beckert said that, if the applicant came in tonight and asked to use this existing building for exactly what she wants to do, would Mr. Bouchard have an issue approving it or disapproving it. He added that, if that building was sufficient for her to put her business in that building, would that be an issue.

Mr. Bouchard asked about the 50'X80' structure in the back.

Mr. Beckert said that would become an accessory structure to the site, or an expansion.

Mr. Whalen asked if anything was currently stored in that building.

Ms. Pelletier said that it was vacant.

Mr. McMullen said that they used to take their products and, effectively, they would lease it out to people to perform their task and then bring it back; that, in a sense, it is very similar to what is being proposed tonight; that the prior business literally had their products stored there and went out and used them to service people the same as Ms. Godek is trying to do only it's slightly different, it's recreational versus another type of service. He added that the Kubota garage does leasing further down the street, they do retail/leasing.

Mr. Whalen confirmed that was in a rural zone.

Mr. McMullen said that that was correct.

Mr. Whalen moved that the Planning Board, with reference to PB15-08, change the specific land use application from 'professional office' to 'retail/business office'.

Mr. Duncan said that he didn't think we could change it; that the applicant has to do that.

Ms. Godek requested that we do that and then proceed forward based on that suggestion. She requested that the land use on the application from 'professional office' to 'retail/business office'.

Mr. Beckert said that the applicant has requested that the application be changed to 'retail/business office'. He said, with the application being changed to 'retail/business office', Mr. Whalen has made a motion to accept it as Sketch Plan for 'retail/business office'.

Mr. Whalen agreed that that was his motion

Mr. Duncan seconded the motion.

Mr. Beckert said that we have a motion and a second on the application that is now considered 'retail/business office' and asked for further discussion from the PB on the motion.

## DISCUSSION

Mr. Duncan said that the question is, and this goes back to definitions, is there a definition of accessory use.

Ms. Pelletier said yes, that she thought it is within the definition of accessory structure – "*when aggregated shall not subordinate the principal use of the lot*". She clarified that this is all under the definition for accessory dwelling unit; that she didn't know why it was all in the same definition but accessory uses and structures are in one definition; that it's the third line up from the bottom of that definition in Chapter 1.

Mr. Duncan said that he could not find accessory use defined; that the only thing he could find was 45-452, which states where they can be placed.

Mr. Whalen said that he wanted to go back to Mr. Bouchard's point regarding the warehouse definition; that typically in the world of commercial real estate a warehouse is normally associated with warehousing and distribution, being you are bringing product in and you are either storing it if you are a warehouse, a moving business, and you're storing furniture there, etc. or, if you are in the distribution business, you are bringing it in, dividing it up, and distributing it out to other locations. He added that he did not see that the use to which they are

intending to use their building as being a warehouse, typical definition of a warehouse/distribution; that they are running a retail business and their product happens to be recreational items that have to be housed in order to lease it out to their respective client base. He said that he doesn't see that that particular use is typically under a commercial/industrial definition applied to their use of this building being a "warehouse" facility. He added that, to that end, he sees it clearly falling into the category of a retail definition.

Ms. Godek said that it just happens to be that the things we rent out are large and that's the reason we need the space for it.

Mr. Duncan said that he thinks that, in the definitions, the fact that accessory structure or use is italicized, he think there's a paragraph return missing; that it would appear that accessory structure is the next alphabetical term in this list; that he thought it should be a new paragraph and it shouldn't have anything to do with dwelling unit.

Ms. Pelletier agreed.

Mr. Duncan said that he didn't know what it takes to do an administrative change like that.

Ms. Pelletier said that she could do those.

Mr. Duncan read, "Accessory structure means a detached structure that is incidental and subordinate to the principal structure. Accessory use, when aggregated shall not subordinate the principal use of the lot." He said that from the standpoint of other than the fact that this proposed building is larger than the existing one; that there's no separate income generated from that building and it's not a separate use but just an extension of. He added that suppose this thing was attached to the existing building as a back extension and asked if we would be arguing this.

Ms. Pelletier said that not every use that a business does has to be out of the Table of Land Use; that you can call it 'incidental to'; that, as an example, that is like how Home Depot sells tools but they also rent them.

Mr. Duncan said that the only problem with that example is that there is income from both of those.

Mr. Beckert said that the motion on the floor was to accept this as 'retail/business office' and accepted at Sketch Plan stage and asked if there was any further discussion.

DISCUSSION ENDED

**VOTE**

**3-1 (Mr. Bouchard opposed)**

**Chair concurs in the affirmative**

Mr. Beckert said that this application is accepted at Sketch Plan stage for 'retail/business office' and, whoever moves forward to the Preliminary Plan, needs to make sure that that's how the application is stated from this point forward. He said that, when Ms. Godek is ready to come back to let Ms. Pelletier know and have everything to the PB 10 days in advance of the meeting so that the PB has it to review.

## ITEM 7 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS

Ms. Pelletier said that for next steps for working on ordinances are the 1,000-foot dead-end and the General Business District, which comes out of the Comp Plan. She added that the EBDC would like to be part of that process in developing the General Business District; that she would love the help and working with that board would be totally fine with her if it was okay with the PB; that we had already started just in terms of what were the appropriate land uses; that this is when the consolidation of the land use tables will happen and definitions of the land uses. She asked if that was the direction the PB wanted to move in.

Mr. Beckert said that the 1,000-foot dead-end has raised its ugly head and needs to be clarified so that everybody reading the ordinance can understand it, however it comes out. He added that it has to be so that the way the PB interprets it is the way the CEO will interpret it and the same way the BOA will interpret it; that it has to have the language so that it is understandable for everybody.

Ms. Pelletier said that she wanted to refresh everybody's memory that the problem has always been what to do with non-conforming roads that are already more than 1,000 feet long; that the ordinances are so muddy on the topic that it is a constant source of appeals and neighbor issues. She added that it is whatever interpretation the Town wants to go in, it just needs to be clear.

Mr. Lentz asked if that was the priority, in Ms. Pelletier's opinion.

Ms. Pelletier said yes.

Mr. Beckert said that that is what we've had down, unless we want to change it. He added that we are trying to tackle some of the things that are in the Comp Plan as well as things that have been issues.

Ms. Pelletier said that she thought that, as we run out of land to develop easily along the main roads and people are trying to access their land and running into problems with interpretations - can you not go beyond the point of 1,000 feet; that that really limits a lot of people in terms of what they can do, development-wise, with their property; that she thinks that's why it's becoming an issue - because there's less land.

Mr. Beckert asked if there was anything else.

Mr. Lentz said that this one we just talked about with the young lady; had he purchased a piece of land, knowing that he wanted to put up a warehouse, that he would make sure he was able to do that in that zone. He added that if he turned it around and looked at the other side of it in saying that he could understand why warehousing says no in the Rural Zone - who wants a warehouse next to their house in a rural setting; that he didn't know what the right way was to satisfy those kinds of things; that it kind of bugs him. He added that he kind of understood Mr. Bouchard's point completely.

Ms. Pelletier said that it is important to remember that it's all mixed - use zones and commercial uses along Route 236, even in the Rural Zone, are fine; that they are just less intense.

**ITEM 8 – CORRESPONDENCE AND PLANNING ASSISTANT, AS NEEDED**

This was not needed.

**ITEM 9 – SET AGENDA AND DATE FOR NEXT MEETING**

The next regular Planning Board Meeting is scheduled for June 2, 2015 at 7PM.

**ITEM 10 – ADJOURN**

There was a motion and a second to adjourn the meeting at 8:03 PM.

\_\_\_\_\_  
**Steve Beckert, Chairman**

**Date approved:** \_\_\_\_\_

**Respectfully submitted,**

**Ellen Lemire, Recording Secretary**