



**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, and Dutch Dunkelberger – Alternate.

**ITEM 2 – PLEDGE OF ALLEGIANCE**

**ITEM 3 – MOMENT OF SILENCE**

**ITEM 4 – ANNUAL ELECTION OF OFFICERS**

Mr. Duncan moved, second by Mr. Whalen, to appoint Mr. Steve Beckert as Chairman.

**VOTE**  
**4-0**  
**Chair abstains**

Mr. Bouchard moved, second by Mr. Whalen, to appoint Mr. Jeff Duncan as Vice-Chairman.

**VOTE**  
**3-1 (Mr. Duncan abstained)**  
**Chair concurs**

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

Mr. Duncan moved, second by Mr. Lentz to approve the minutes of July 21, 2015, as amended.

**VOTE**  
**4-0**  
**Chair concurs**

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

No reviews were done.

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

**A. 10-minute public input session**

Mr. (Victor) Castillo, 11 Knoll Road off Governor Hill Road, said that he happens to live on a corner lot down there and he has been denied a building permit to build a garage because he lives on a corner lot. He added that because it's a corner lot not only

his front yard considered his front yard but what he considers his side yard is considered a front yard, also. He said that there is also an ordinance that states: “no accessory buildings in a front yard”; that that takes his ability to build a garage in his side yard because it’s being considered a front yard. He added that his side yard is 350 feet deep, 125 feet wide, and basically 45,000 square feet; that that is ¼ of his property and one half of his yard. He said that he pays his taxes on the full property, not on half his property, and he is pretty upset that he can’t build a garage where he wants to build it; that it makes sense, it meets all the setbacks. He added that the setback for an accessory building is 10 feet, with a minimum of 30 feet away from the principal structure. He brought pictures in to show the Board what he was trying to do. He added that the garage is 100 feet off the front line, 50 feet off the side, 240 feet off the back, and 50 feet away from his house; that it meets all the requirements to build a single-story garage. He reiterated that he can’t do it and it doesn’t make any sense. He asked how do you apply this ordinance...what if he owned 50 acres and had his house set way out back, asking if that meant he couldn’t use any of that frontage; that that is what this ordinance is saying. He said that he felt that the ordinance hadn’t kept up with the times; it’s binding, and extremely unfair. He added that he is asking that the Planning Board please take a look at this ordinance, with urgency, as soon as possible and make some change to it. He said that, in his opinion, if this ordinance basically said no accessory building in the front yard setback, then it would make sense but, as it stands right now, it’s no good. He added that he should have the same opportunities as any other resident in the Town of Eliot to build a garage; that he watched a guy, 2 houses up from him, build a 40x60x25 red steel building because he’s on an interior lot; that he should have the same exact opportunity to build a garage on his property where it belongs, where it makes sense, and where it’s going to yield the best end result. He reiterated his request that the Board take a look at this, with urgency, and make a change so that those of us that live on corner lots aren’t segregated from having the opportunity to build a garage.

Mr. Beckert asked Ms. Pelletier if this was in denial by the CEO.

Ms. Pelletier said that it was and that it also went to the Board of Appeals to try to get a variance, which was also denied. She added that this is not the first time we have heard this.

Mr. Beckert agreed. He said that what bothers him about this one is hearing it was considered two front yards; that you can’t have two front yards on the same piece of property.

Ms. Pelletier said that by definition you can.

Mr. Beckert agreed you could ‘by definition’ but, in by practicality it’s not two front yards.

Ms. Pelletier said that we definitely need to make some changes there. She added that she hoped that the intention wasn’t that you couldn’t have any accessory building, anywhere from any point, from the road to the front of the principal structure – the front

yard; that she thinks it was probably intended to be the front setback, which would be 30 feet. She said that it would be a simple amendment she thought we could get through for June, if the Board wanted to do something about it.

Mr. Whalen asked on what grounds was the variance denied.

Ms. Pelletier said that, by nature, variances are hard to get; that she didn't think they met the first criterion for 'reasonable return'.

Mr. Duncan asked Mr. Castillo what his mailing address was.

Mr. Castillo said 11 Knoll Road.

Mr. Duncan said that, so, one of the two roads was Mr. Castillo's mailing address.

Mr. Castillo said absolutely; that 11 Knoll Road is the front of his house. He added that it's at the front of the house where he drives in; that the front of his house points in that direction; that 'this' is his side yard where he wants to build a garage; that there's no reason why he shouldn't be able to do that; that it's just being bound by the wording of the ordinance, "no accessory building in the front yard". He said that that is kind of ridiculous and it's upsetting that he's lived her for a long time, he's paid his taxes in full for a long time; that that is half of his property, there, that he can't use, and not just for a garage, but not for a gazebo or shed or anything; that he can't do it because it is an accessory building. He added that other people are in the same situation and it's really unfair to those of us who live on a corner lot.

Mr. Beckert said that we will definitely take a look at this; that this subject has come up before and it needs to be addressed; that we also need to look at the two front yards. He added that the PB would deliberate on this to come up with a recommended change to be put on the warrant and voted by the Town.

Ms. Castillo asked if this was an official request that you look at it and it would be discussed.

Mr. Beckert said that it is part of the minutes tonight that you've made a request to look at it.

Mr. Duncan concurred that the process has now started.

Mr. Castillo asked how they could stay in the loop to know, to see what's going on and how this thing is moving along.

Mr. Beckert said that Mr. Castillo could keep in contact with Ms. Pelletier for when it's on the agenda, the video-streaming, or come to the meetings; that we will take a look at it.

Mr. Whalen asked if they appealed the decision.

Ms. Pelletier said that they did not appeal the decision; that they tried to get a variance, instead, because someone else was successful doing the same thing in a similar matter; that he thought that might be his best shot.

Mr. Whalen asked if the applicant could appeal that decision.

Mr. Castillo said that we would not be able to meet that first criterion because that question pretty much states, "Will the land in question yield a reasonable return?" He said we live in Eliot, it's a nice place and any piece of land that has a home on it in Eliot is going to yield some type of return monetarily but, in his opinion, 'reasonable return' can be measured in many different ways and, in his case, he feels that usability of his property is not yielding him a 'reasonable return'; that the Board of Appeals sees it differently so that's why we are here today so that, hopefully, we can get this thing changed so that it's applicable and we can go build a garage where it makes sense.

Mr. Beckert said that the PB would take a look at all aspects of that ordinance.

**B. PUBLIC HEARING – and continued review of an application to demolish two (2) non-conforming single family dwellings located at 403 River Rd. and replace with one (1) single family dwelling. Applicant/owner is: John Valentine Homes, LLC (mailing address: 407 River Road, Eliot, ME 03903). Property can be identified as Map 25/Lot 2 and is located in the Suburban District and Shoreland Limited Residential Zoning District. (PB15-10)**

The applicant and Mr. Markley were present for this application.

Mr. (Ken) Markley, Northeasterly Surveying, Inc., said that he was representing Mr. John Valentine and summarized the project. He said that the lot is approximately a ¼ acre in size; that there are two existing family dwelling units – one principal and one accessory. He added that it has a non-conforming septic system in the front yard, basically unknown, and probably leaching into the river. He said that the proposed is to move the septic system outside the 75-foot setback; that it's already been designed and meets all the criteria for the State of Maine on-site wastewater disposal systems. He added that the idea is to demolish both existing buildings and reconstruct a building in compliance with the setbacks to the greatest practical extent possible; that this is not an expansion or relocation but a reconstruction. He clarified that the height of the building has now been reduced to 34 feet and that the proposed amount of vegetative cover for the lot, which doesn't take a lot to get up to the 20% because of its size, is being reduced from 36.2% to 18.8%.

Mr. Duncan asked if that was due to the reconstruction.

Mr. Markley said that it was due to the reconstruction and most of that is outside the 75-foot setback to the greatest possible extent without making it unsafe in relationship to the

road because we do have a front setback and that is a busy road. He added that he gave the PB some supplemental handouts.

**7:20 PM Public Hearing opened.**

There was no one who wished to speak to this application.

**7:21 PM Public Hearing closed.**

Mr. Duncan asked if the dock, ramp, float, and retaining wall are existing.

Mr. Markley said that they were.

Mr. Valentine said that nothing was being done on the water.

Mr. Whalen asked for clarification of the change in the vegetative cover from the original submission to the revised submission.

Mr. Markley said that at the top center of the submission we had a certain amount of square footage "TBD" (to be determined) because we didn't know how we were going to use them; that the applicant still has 1.2% to get back up to 20%; that the applicant is adamant that he would like to see it the way it is presented in this submission. He added that he thought an extra width on the driveway might be possible.

Mr. Valentine said that it was all revolving around the driveway because of coming off of River Road and it's 30 feet from that to the...so that's where the space...and, then, we're just going to have a one-car garage and the smallest possible driveway. He added that the rest of it has all been blacktopped; that that is all coming up and being brought back into vegetation.

Mr. Duncan moved, second by Mr. Whalen that the Planning Board approve PB15-10 be approved, as presented, with the following standard conditions of approval:

1. The property may be developed and used only in accordance with the plans, documents, material submitted, and representations of the applicant made to the Eliot 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. The 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 the 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 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.

3. The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.

#### DISCUSSION

Ms. Pelletier suggested an additional condition for the driveway; that the applicant will need a new driveway entrance permit from the Eliot Public Works Director.

Mr. Duncan said that he would accept that addition as an amendment.

Mr. Whalen said that he would accept that as a second.

#### DISCUSSION ENDED

#### VOTE

4-0

Chair concurs

Mr. Beckert explained the 30-day appeal period to the applicant.

- C. **Continued review of an application for Site Plan Review to construct a 10,000 sq. ft. industrial building and a 6,600 sq. ft. industrial building on a vacant parcel located on Harold L. Dow Highway between Sunrise Street and Bolt Hill Road. Applicant is Chloe Allegra Holdings, LLC (mailing address: 647 US Route 1, Suite 14-101, York, Maine 03909). Owner is Sail Away, LLC (mailing address: PO Box 266, Eliot, Maine 03903). Property can be identified as Map 17/Lot 33 and is located in the Commercial/Industrial zoning district. (PB15-06).**

At this time, Mr. Whalen recused himself and stepped down from the bench.

Mr. (Matthew) Randall said that we have reviewed this about three times, had a site walk, had a Public Hearing at the last meeting and that it seemed like everyone was in agreement besides some of the landscaping on the side and the gas easement, not knowing what was going to happen with that in the future. He explained that because of that gas easement question we went back to the seller and we removed the gas easement so there won't be that in question. He added that that area we were showing will remain as trees, vegetated, and there won't be a gas easement there. He said that he did believe that was the only outstanding issue; that he did turn in, in the PB's packet, a letter from the neighboring NAPA parcel since there was that culvert we saw in the wetland crossover going slightly into their property. He added that, on the plan, he did add a potential easement across the NAPA parcel, more so for the PB's information regarding the water line hopefully coming off of Bolt Hill Road; that we are working with the Kittery Water Department at this point. He said that we submitted our DEP permits last week; that he received the receipt from them in the mail today so we have about 14 days from last Friday; that if we don't hear anything from them then that's approved; that

that's an NRPA Permit for being within 75 feet of the stream as well as a basic stormwater permit.

Mr. Beckert asked for comments from the Board members. He did say that, as was said at the last meeting, the major sticking point with the neighbors was the buffered zone and what would happen if the gas line went through; that the gas line has been removed from the project so everything will remain the same.

Mr. Duncan said that he appreciated Mr. Randall's efforts regarding the buffer. He added that we were talking a little bit about visibility through the understory asking if, at this point, there are no plans to add anything and it's just going to be what exists.

Mr. Randall said that on the grading plan it shows where the limits of grading are; that we are going to be as cautious with that as possible but we will maintain 27 feet; that he thought right now it was at 35 to 40 feet. He clarified that 27 feet would remain untouched; that there won't be anything added as it is basically their view that those mature trees have a lot of density to them, a lot of mass, and it actually would be the best thing.

Mr. Beckert asked if, basically, the only disturbance on that side of the project would be the retention pond.

Mr. Randall said that that was correct.

Mr. Beckert said that, therefore, the undisturbed area would remain at 27 feet rather than 10 feet.

Mr. Randall said that that was correct.

Mr. Duncan asked if there was any lighting on the back of the building.

Mr. Randall said no; that the only lights are on the side of the building. He added that there is one light just for the fire lane that is on the side and is full cut-off and should not disturb the neighbors.

Mr. Duncan moved, second by Mr. Bouchard, that the Planning Board approve PB15-06 as presented and amended with the standard conditions of approval as follows:

1. The property may be developed and used only in accordance with the plans, documents, material submitted, and representations of the applicant made to the Eliot 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. The 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 the 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 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.

3. The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.
4. Copies of all required permits are to be submitted to the Code Enforcement Officer before construction.
5. Enter into a Stormwater Maintenance Agreement with the Town prior to occupancy.

**VOTE**

**4-0**

**Chair concurs**

Mr. Beckert explained the 30-day appeal period to the applicant.

At this time, Mr. Whalen returned to the bench.

**D. Continued discussion on clarifying ordinance provisions related to development on non-conforming roads and 1,000' maximum dead-end road length.**

Mr. Beckert said that this is another grey area in the ordinances where there have been people who have been given building permits with the Town and others have been denied on the same road; that we need to address that issue, as well, so that when the PB reviews it, the CEO reviews the requirements of the ordinance, and the Board of Appeals reviews the requirements of the ordinance it is clear enough that all three entities understand the intent of the ordinance and don't have different views of its application, which seems to be the problem now.

Ms. Pelletier said that the PB asked her to get some examples of what other towns do, giving copies of what she found to the PB. She added that she has a tab in there for examples of the 1,000-foot roadway but the power was off and on this afternoon so she will get copies to them for the next meeting. She said that Kittery does not address this at all about what you do when roads are not conforming with these standards and private or non-conforming lots being developed on non-conforming roads; just what standards do you apply in non-subdivisions situations is what we need to find out here. She added that she thinks York has a good one; that it's not overly complicated. She said that for us, as far as applying the ordinances on a day-to-day basis, it is difficult differentiating between what is a back lot and what is a non-conforming lot; that a lot of times they end up being both; that it's quite difficult when we have this back lot section that is so complicated and really difficult to follow and full of areas that are not clear. She added that she likes that some towns have boiled it down pretty simply; that she likes that Topsham has this letter that is basically like a Q&A on how to create a buildable lot, which she thinks is written for the lay person to go along with the ordinance; that she showed Ms. Ross and Ms.

Ross liked it, too. She said that South Berwick doesn't have back lots, they have estate lots; that it was very interesting to see how some towns deal with these same issues and some don't deal with them at all. She added that, with a lot of towns, if you want to build a private road they don't require you to pave it anymore; that if you want to petition your town that you don't want to turn over your road to the Town, then the regulations are a little bit more relaxed there in some towns. She said that she also had some examples of roads over 1,000 feet.

Mr. Beckert said that we had looked at that before and it was all over the place in different towns and different states.

Ms. Pelletier agreed it was all over the place and no real rhyme or reason as far as she can tell.

Mr. Beckert said that what they had looked at initially in years past he doesn't think holds true now; that there was an assumption at the time that the 1,000-foot requirement was put in due to fire apparatus within the Town; that we've asked the question now and that's not the case. He added that it is just like driveways that can't be over 500 feet in length in our ordinance. He asked why he should care if someone has 200 acres and they want a driveway that is 300 feet long or 600 feet long; that that is up to them and, in his opinion, as long as the fire apparatus can get in there when they have to protect their home then it doesn't matter how long it is, or it shouldn't.

Ms. Pelletier said that if the PB comes up with another random number that's not 1,000 feet just for the sake of changing it then you're just going to be right back here in another few years when that's no longer adequate to serve the developable land left. She added that you need some science and logic behind it but she wasn't sure where you find that; that she continues to look for guidance on that in the Planning world but it isn't the easiest thing to come across for road lengths.

Mr. Duncan said that 1,000 feet could be debated as not being right but is there no limit – is it 10 miles, is it 2 miles. He added that he sees one in the examples that talks about a private road, or at least a gravel road, not being more than 10 lots long, basically.

Mr. Whalen asked if we knew the origin of the 1,000 feet.

Mr. Beckert said no; that that's the problem.

Mr. Whalen asked if it was causing us issues currently.

Ms. Pelletier said that it is; that she thinks it's because as the years go by and people develop land, there is less land; the low-hanging fruit, if you will, has already been developed so they need to go back further and 1,000 feet is no longer enough to access the land that's available to be developed in a lot of cases. She reiterated that if you make it 1,200 feet or 1,500 feet, you'll be back here in a few more years with the same problem.

Mr. Bouchard asked if the width was the problem or length the problem, or both.

Ms. Pelletier said that that's another issue; that that's the issue we are dealing with – what street standards do you want to apply to development on existing non-conforming roads.

Mr. Whalen asked if we know what the life safety folks have to say about the length of a road.

Ms. Pelletier said that she knew that Mr. Muzeroll was saying, she thinks, for several years that he was going to write something for us on that but she hasn't seen it yet. She added that, verbally, he does not have an issue with it being longer than 1,000 feet; that he doesn't feel limited by his ability to rescue for something that is in excess of 1,000 feet.

Mr. Duncan asked if he could do it on 10 miles, a 10-mile long dead end.

Ms. Pelletier said that she did not ask him that.

Mr. Duncan asked at what point do we go above 1,000 and stop.

Mr. Beckert discussed Punkintown Road; that that is developed right to the end and that's about a mile so that's over 5,000 feet; that there is no secondary egress out and permits have been given.

Mr. Duncan said that when that road was first put in place it went all the way through to Route 236 in South Berwick.

Mr. Beckert agreed but not the way it is developed now.

Mr. Duncan said that South Berwick discontinued its end of it back in like 1902 and, Eliot, back in 1940, went from a public road to a private road.

Mr. Beckert agreed, saying that it then became a non-conforming road, which is one of our issues, but it's still a road.

Ms. Pelletier said that some towns in the examples have a cut-off date; that if your road existed on 'this' date and probably had something to do with the date of the adoption of the zoning ordinance; that you had to prove the date of the road shown in a deed.

Mr. Beckert said that he thought our ordinance, and it may have still do in the road standards that, if the road (not Town road) or route of passage existed prior to 1978, that the PB has a waiver-ability there.

Ms. Pelletier agreed but added that that is for subdivisions; that those standards you keep referring to are for subdivision streets; that there is no clear link.

Mr. Beckert said that if they are adequate for subdivisions, then why wouldn't they be adequate for private roads.

Ms. Pelletier said for new private roads; that we aren't talking about new roads but roads that are existing where a lot can be developed on, has frontage on, but our ordinances are not clear one way or the other what the intention is – are you requiring to upgrade, are you calling it a back lot, are you calling it a front lot; that it's muddy.

Mr. Lentz said that he had a tough time finding anybody who even knew what a back lot was. He asked if there could be a back lot that is not non-conforming.

Ms. Pelletier said no because a back lot doesn't have frontage.

Mr. Lentz suggested eliminating back lot all together and call it a non-conforming lot.

Ms. Pelletier said that she thought that was a great start.

Mr. Duncan said that it could be a non-conforming lot that's not a back lot.

Mr. Lentz agreed, saying that we just talked about one tonight.

Mr. Duncan said that, in his opinion, you have to have a definition of 'conforming'.

Ms. Pelletier said yes; that she thought we have good definitions of 'non-conforming lots of record'.

Mr. Duncan reiterated 'conforming' then 'non-conforming' is a lot that is not 'conforming' and a back lot is a subset of 'non-conforming'; that it is only non-compliant because of frontage and all other dimensional requirements must be met to be a buildable back lot.

Mr. Beckert asked what if you have a piece of land that was laid out and deeded prior to zoning and is a non-conforming lot of record.

Ms. Pelletier said that we don't have any issues with those (grandfathered lots); that it is a very specific issue in what street standards are applicable in non-subdivision situations; whether it be a new non-conforming lot on a non-conforming road or an existing non-conforming lot on an existing non-conforming road, and what's the intention there – to allow development as a grandfathered lot or to require some sort of improvement of that road prior to development; that that is what we struggle with in interpretation.

Mr. Beckert said that, unfortunately, it's been applied differently over the years.

Ms. Pelletier agreed, saying that she could see why because it's certainly not clear.

Mr. Whalen asked if these lots don't pass the variance litmus tests.

Ms. Pelletier said that 99% of them don't; that a variance should be a last resort, a once-in-a-blue-moon sort of thing. She added that if you want to have some other classification of deviation from the ordinances you need to call it something else, not a variance; that if you want the Board of Appeals to have authority to hear other situations that aren't just variances is another thing we can consider in cases where it is a deed or you think something needs another set of eyes; that we can set of the BOA to be able to hear those cases, or the PB; that it doesn't have to be the BOA; that it can be either.

Mr. Whalen asked if it was necessarily the case that the appeals process, variance process, be positioned so that it allows from the parent document, which is obviously our zoning ordinance, to be consistent with the ability to waive a requirement in that ordinance. He asked if, in other words, do we have an ordinance that is unappealable in terms of its statutory requirements and, if that is in fact the case, then does that somehow violate a constitutional right to the applicant to be able to seek relief.

Ms. Pelletier said that what you want to be careful of is that you are not inappropriately delegating legislative authority; that the voters are the Town body, the ones who decide on these ordinances and any deviation from that has to be done so with their vote and approval. She added that if a board does have power to waiver from those standards, then that's fine, so long as the people vote that in and you have very clear and concise standards to apply; that that way you can defend these decisions in court.

Mr. Whalen said that it was inconceivable to him that there's not a clear path in the approval process to have granted that gentleman earlier a waiver; that that's a classic example of somewhere along the line that something's wrong; that that's just absurd.

Ms. Pelletier agreed.

Mr. Bouchard asked if he couldn't show 5, 6, 8, 10 examples in Town of corner lots with garages.

Ms. Pelletier said absolutely but that means nothing; that it's completely irrelevant – past mistakes.

Mr. Bouchard asked if the example set a precedent - why he is being denied.

Ms. Pelletier said that the word 'precedent' only carries weight in the Supreme Court; that it's not anything the PB or BOA can set. She added that perhaps a standard may have been set or some expectation but it's not a precedent in the eyes of the law. She said that you want to be consistent; that that's the point.

Mr. Bouchard asked if it that was consistency if he shows, consistently, that people are allowed and then they're not.

Ms. Pelletier said that, regarding interpretation, we have had so many CEO's that read the ordinances differently so we can't go back on one because they saw it one way and

missed something, etc.; that all we know is the CEO we have now and interpretations we have now; that if the ordinance is unclear to that person then it needs to be amended, in her opinion.

Mr. Lentz asked, regarding a back lot or 1,000-foot road, if that was ever an issue in a subdivision.

Ms. Pelletier said that you can't have back lots in a subdivision but the 1,000-foot dead-end road requirement applies everywhere in Town, subdivisions included.

Mr. Whalen asked if that was an issue with subdivisions.

Ms. Pelletier said that they may not be able to get as many lots as they wanted but has probably not ever killed a subdivision.

Mr. Beckert said that we usually have to deny them with their cul-de-sac; that it's less than 1,000 feet to the back of the cul-de-sac. He added that they have complied with it as they have had to.

Mr. Lentz said that, then, it's a Town road, also, isn't it.

Ms. Pelletier said that every road is a private road until it's a Town road; that the Town doesn't have to accept an new roads if they don't want to.

Mr. Lentz said that the private road doesn't need the turn-around.

Ms. Pelletier said that it does; that if you're building a new road, it doesn't matter if it's public or private, it is all built as the same standard; that there's no deviation there, at all, no matter what its future intention is. She added that it's only existing roads we are concerned with and the access to these back lots and what standards you want to apply there.

Mr. Whalen asked if Ms. Pelletier ever ran across an ordinance that did not define the length of a road in terms of applicability of spinning off lots and building.

Ms. Pelletier said that if it was a private road there were some that did not have a limit. She added that Kittery doesn't address the non-conforming road situation; that most of them address a maximum dead-end road; that they are pretty good about that; that it's the non-conforming road situation issues that some don't address. She said that they are all over the place; that she has seen very limited feet, for private roads unlimited if they put it on a plan that they're never going to turn it over to the town; that it runs the gamut.

Mr. Beckert discussed the issue that was revisited tonight.

Ms. Pelletier said that that issue comes up a lot; that she thought he's the only one who has come to the PB recently and discussed it but it does come up all the time.

Mr. Beckert said that this has been brought up in years past and made no sense; that it is like the assumption that it was within the front yard setback but it doesn't say that.

Ms. Pelletier agreed; that as the resident said you could have 50 acres in your front yard and it's completely useless. She added that she also agrees that we can't have two fronts.

Mr. Beckert agreed and said that tonight threw him when the resident said it was considered two front yards; that you can't have two front yards, regardless of what the definition says; that common sense tells you that you have one front yard, period, and that is where your house and your mailing address and your driveway are.

Mr. Duncan asked where we could find wording that says there can be two front yards that we need to be looking at.

Ms. Pelletier said that that is in the definitions under 'yard, front'.

Mr. Duncan said that that says that it's any area between the front of the house and the road; that that doesn't say the side of the house.

Ms. Pelletier said that that was a separate issue; that when you look at the definition of 'corner lot', it says "a lot with at least two contiguous sides abutting upon a street."

Mr. Bouchard asked about 45-405 (1) "Street frontage shall be measured along one street."

Ms. Pelletier said that was street frontage but the definition, you can't argue with it.

Mr. Beckert said that that was where the confusion was, 'front' versus 'front yard'.

Mr. Duncan said that "front lot line means, on an interior lot, the line separating the lot from the street: on a corner or through lot, the line separating the lot from either street."; that that's the problem.

After further discussion regarding the definitions, Mr. Beckert reiterated that it is all in the interpretation of what is written; that we have our work cut out for us; that the ordinances shouldn't be that ambiguous; that the courts will usually tell you that, when the ordinance is ambiguous, it goes to the applicant.

Mr. Lentz said that 'side lot line' "means any lot line other than the front lot line or rear lot line."

Mr. Duncan said that the definition for 'rear lot line' sort of helps; that on a 'corner lot' "the rear lot line shall be opposite the front lot line of least dimension."

Ms. Pelletier said that it doesn't say one front lot line.

Mr. Beckert said that that was where the correction and clarification is needed.

Mr. Duncan said that really what we could end up saying under 'front lot line' is either the shortest dimension or the mailing address as defined by...

Ms. Pelletier suggested whatever is the opposite of what came out as the rear lot line.

The suggestion was raised to use E911 in talking about the mailing address.

Ms. Pelletier said that E911 just goes by where your front door is; that that doesn't always mean that's the front lot line; that some people's houses are angled and some are completely facing the other way.

Mr. Duncan said that, using an interior lot on a block and the house sitting perpendicular to the street, the house is really facing a side lot line and is really going to have an E911 on the street, itself; that, then on the corner lot, there is one of two ways; that it's the shorter dimension or it's E911; that he wouldn't care if the front door was facing either street. He added that your catawampus alignment might be a little tough, that we'd have to come up with something but, if we say E911, pick one of them.

Mr. Beckert said that when E911 was laid out in Eliot, it was measured every 50 feet; the 50-foot mark that came closest to the driveway is where your number was; that that was number assigned to that 50-foot mark.

Ms. Pelletier said that she needs to think about where 'front lot line' comes into play in the ordinance, as a whole; that even though she agrees with Mr. Duncan in the very narrow scope of 'front lot line' but she needs to think about how that affects the rest of the ordinance. She said that she would get back to the PB on that.

Mr. Duncan agreed with Mr. Whalen in that he thinks we need to make at least one change and that is there is only one 'front lot line'; that the only question is which one is the one.

#### **ITEM 7 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS**

There was no discussion.

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

There was no correspondence.

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

The next regular Planning Board Meeting is scheduled for September 1, 2015 at 7PM.

**ITEM 10 – ADJOURN**

There was a motion and a second to adjourn the meeting at 8:10 PM.

  
Steve Beckert, Chairman  
Date approved: 9-1-15

**Respectfully submitted,**

**Ellen Lemire, Recording Secretary**