

ITEM 1 - ROLL CALL

Present: Steve Beckert – Chairman, Jeff Duncan, Larry Bouchard, Greg Whalen, Dennis Lentz, Melissa Horner – Alternate, and Christine Bennett – Alternate.

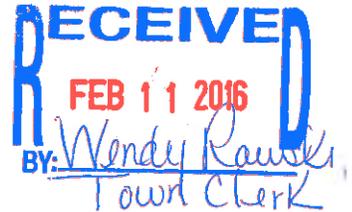
Also present: Kate Pelletier, Planning Assistant.

Voting members: Jeff Duncan, Larry Bouchard, Dennis Lentz, and Greg Whalen.

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 August 18, 2015, as amended.

VOTE
4-0
Chair concurs

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

- Pomeroy Shoreland Zoning Permit (PB15-13)
- Payne – Revision to previously approved conditional use permit (PB05-14)

These will be reviewed at the next regular meeting.

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

A. 10-minute public input session

Mr. (Orland) McPherson, 1328 State Road, had a procedural question. He said that, in looking at the ordinances, it is, if he understands it right, that when all of the information is presented, the PB will hold a public hearing so that the public and those interested can make comments or ask questions. He asked that, at some later date, if some changes are made or additions made, will the public have a chance to comment on those.

Mr. Beckert responded by saying if the PB decides to have another public hearing; that for clarification the public can always send in comments, in writing. He added that the PB encourages it because it becomes a formal part of the record.

There was no one else from the public who spoke.

Mr. Beckert reminded everyone that there were no public hearings tonight so any discussion on the items will be between the PB, the applicants and/or their representatives.

B. Continued review of a Preliminary application for Subdivision/Site Plan Review to construct 21 elderly housing dwelling units off State Road. Applicant is Joseph Falzone (mailing address: 7B Emery Lane, Stratham, NH 03885). Owner is Barbara Libbey (mailing address: 1372 State Rd., Eliot, ME 03903). Property can be identified as Map 20/Lot 13 and is located in the Village and Suburban zoning districts. (PB15-03)

Mr. Beckert asked Ms. Pelletier, before we start any discussion, to explain why we asked them to come back tonight, as it was originally scheduled for November 17th.

Ms. Pelletier said that they have not submitted anything new; that the only new things that you have are from the Soil Scientist, PW Director Moulton; that we are not here to review anything that they submitted. She added that there is, indeed, a difference between acceptance of a Preliminary Plan and approval of a Preliminary Plan. She said that the purpose of tonight's review is to approve, or deny, the Preliminary Plan; that you can approve it with conditions, if you like, but it's just a formality in the process; that you need to do that.

Mr. Beckert asked for questions from the PB for Ms. Pelletier before he asked the applicant if there was anything left on the Preliminary Plan that they would like to discuss or address.

Mr. Bouchard asked if there was anything left that they needed to submit.

Ms. Pelletier said no, not in her opinion; that she gave the PB a checklist of every Preliminary Plan requirement and whether, or not, they've addressed it, in her opinion; that it is up to the PB to agree or disagree, and then make a motion.

Mr. Beckert asked the applicant if there was anything on the Preliminary Plan submissions that the applicant wants to reiterate to the PB.

Mr. (Matthew) Randall said he had nothing specific but if there were any specific questions from the PB; that he had been looking at the Preliminary Plan process, approval of the Preliminary Plan is kind of a general direction, given by the PB, for us to go to Final Plan; so, any direction that the PB would have for any further requirements that you would need before Final Plan, we would like those comments; that you have been pretty good, so far, at pretty much what we need and we would be more than happy to provide you with whatever you need, further, for Final Plan. He agreed with Ms. Pelletier that this is kind of a formality and it's more to get direction from the PB.

Mr. Beckert brought it back to the PB, saying that they had the memo from the Planning Assistant to the PB, with the checklist of Preliminary Plan Submission Requirements

from §41-150; that everything is listed – items 1 through 22; he asked for questions to Ms. Pelletier on the list or questions to the applicant on anything that was submitted for the Preliminary Plan.

Ms. Horner asked if it would be appropriate to share the wording of this document with the public tonight; that she knew that this is public information but that she thought it would be nice to read it for everyone, here, since some people that are in the room were at the last meeting and were wondering about the soil testing and getting a second opinion.

Mr. Beckert confirmed with the Planning Assistant that that was perfectly fine.

Ms. Pelletier said yes.

Ms. Horner read the letter from Mr. Cuomo for the benefit of the attending public.

Mr. Randall said that he was able to make those corrections; that none of them were actually on any of the lots that we have but he does have a map if you want see; that they are on the very outskirts of this map.

Mr. Lentz asked how that impacted any of the septic design that you had already done.

Mr. Randall said that it doesn't impact that.

Mr. Duncan asked if Mr. Cuomo was asked to evaluate the soils for their intended use, as far as septic and/or structural, when he did this review.

Ms. Pelletier said that he was asked to review the entire report; met on-site and got kind of a tour of the site; that she can't speak to anything more specific than that.

Mr. Duncan said that he doesn't offer an opinion as to the suitability for septic and that sort of thing.

Ms. Pelletier said no and she thinks that, if he had noted anything that was in conflict with what he saw, he would have mentioned it. She added that if the Board had specific questions she would be happy to ask them.

Mr. Lentz said to Mr. Randall that, early on, we talked about the pooling of water in the wetlands down there; that he thought we were going to have the Department of Inland Fisheries and Wildlife (DIFW) review that. He asked if there was anything formal that came back from that.

Mr. Randall said that we did get a letter from John Perry; that they didn't really have any concerns with those two front wetlands; that there were a couple of things behind them that were more valuable to them.

Mr. Lentz asked Mr. Randall if he could make sure that was part of the record.

Mr. Randall said yes.

Mr. Lentz said that we had also talked about a letter from the DOT regarding the curb cut. He asked if we have that or if it's been issued.

Mr. Randall said that that has been issued; that we got approved for a 20-foot wide driveway entrance. He added that he turned that in for your next meeting.

Ms. Bennett said that criterion #11, which is optional, was listed as non-applicable; that it was reviewing the soil analysis to make sure there was adequate land area for all the buildings, etc. She said that she was wondering why this was not applicable in this application.

Ms. Pelletier said that the PB didn't ask for it.

Mr. Lentz asked if it was appropriate to talk about going forward, at this point.

Mr. Beckert said only with the formal acceptance of the Preliminary Plan.

Mr. Lentz asked if he could address expectations.

Mr. Beckert said yes.

Mr. Lentz said that things we talked about, early on, and it was said that it was too soon were fire hydrants, sidewalks, lighting, utilities, etc.; that those were all things he would like to see on the Final Plan.

Mr. Randall said certainly; that, again, the plans we submitted today for the 17th has all that.

Mr. Duncan said to Ms. Pelletier that he had a question on #11. He asked, if we don't ask for it at this stage, is this our last opportunity or can we discuss that intent, if you will, during review of the Final Plan.

Ms. Pelletier said that this would be your last opportunity.

Mr. Duncan asked if the applicant had any comments on that.

Mr. Randall said that he has not gone through all the test pit logs but, again, this wasn't anything we were asked to do. He added that he wanted to say that, with almost all the test pits, the groundwater was below 15 inches but he can't be completely sure until he looks at the test pit logs.

Mr. Duncan said that the intent, here, is to make sure the lot has sufficient land area suitable for foundations, subsurface sewage disposals, and other regular land uses and he would personally like to have a comment from the applicant that there is sufficient land area.

Mr. Randall said that there is sufficient land area for those uses. He added, after going through the logs, that they had two that were below 15 inches and one was at 15 inches but we aren't designing septic in that. He said that, if you want a general idea of the soils on the site, about 90% of the test pits that we have, the groundwater was greater than 15 inches from the surface; that that's pretty good.

Ms. Bennett said that it appears this #11 is really a summary of the high intensity soils survey for the two parcels in a way in which we can quickly look at to ensure that, yes, there would be adequate soils; that, if one of the systems failed, there would be adequate space and location of the soils for a replacement system, or something like that. She added that she wondered if this would be cumbersome for the applicant to modify in creating a summary document of the soil survey.

Mr. Randall said that he thought that's what the high intensity soils survey is; that he understood what she was saying.

Ms. Bennett said that she didn't think it puts it into that sort of gross measurement; that she can't quickly tabulate how many acres of scantic soil there is, etc.

Mr. Randall said that we could get a letter from our soils guy.

Mr. Beckert asked if that satisfied the PB.

The PB said yes.

Mr. Lentz said to Mr. Randall that, just to make sure we've crossed all the T's, Mr. Moulton had a concern about drainage and he sees Mr. Moulton has signed off on that now.

Mr. Randall said yes; that we had a conference call with Ms. Pelletier and he was fine with our proposal.

Mr. Lentz said that Mr. Randall had verification from Kittery that they would be able to supply water; that he believed that was some time ago.

Mr. Randall said yes.

Mr. Lentz said that he didn't see anything from the Police Chief. He said to Ms. Pelletier that there was a letter from the CEO, dated the 20th, which was talking about subsurface wastewater disposal systems regulated under the State of Maine. He asked if she wanted something done with that.

Ms. Pelletier said no; that she was really trying to say that there wasn't much the PB could do to alter those rules over and above what the State is already doing.

Mr. Lentz said that the applicant does have a stormwater plan that's an MS4 permit-type of thing and he thought there was a management plan with that.

Mr. Randall said yes; that it has been submitted.

Mr. Lentz said that the applicant agreed with Mr. Moulton as far as the requirements that he sent to you for 6 inches of gravel on the base of the road; that that's squared away, too.

Mr. Randall said yes; that those details are all in the plan.

Mr. (A1) Libbey said that he thought that Mr. Randall and Attar have done a good job of meeting the Town requirements; that, as he was looking at the plan, he saw something which makes him think that it could be improved.

Mr. Randall clarified that Mr. Libbey is looking for direction going forward and asked if the PB wanted to get through the Preliminary Plan first.

Mr. Beckert agreed that he would prefer to get through the Preliminary Plan requirement first; that then the PB can set requirements that they want to see for the Final Plan. He asked the Board if there were any other questions for Ms. Pelletier or the applicant on the Preliminary Plan submissions and checklist.

Mr. Duncan said to Ms. Pelletier that things, for example, like Item #15 with the sanitary sewer, is that proper to check "submitted by applicant" or was that waiver requested.

Ms. Pelletier said that they had to demonstrate connection to an existing sanitary sewer system or an alternate means of treatment and disposal proposed; that they have proposed that. She added that what she will give them in the Final Plan are all the other requirements, which is the requirement to connect to public water and sewer; that that's not under the Preliminary Plan but later on in the chapter; that they were just trying to get ahead of it with a waiver. She said that she would keep going with the checklist, if the PB wants, in the next stage.

Mr. Duncan said that her intent with this checklist is, basically, to show that the applicant has addressed that line item or any of the other line items, not that they've requested a waiver from submission under that line item.

Ms. Pelletier said that that's right; that this, again, is her own opinion.

Mr. Whalen asked Ms. Pelletier if §41-147 under the conditions of preliminary approval apply.

Ms. Pelletier said that she didn't believe the PB was requiring any off-site improvements so there wouldn't be a performance bond required; that there will be one for the construction of the road; that that comes later and gets approved by the Selectmen, not the PB or the State.

Mr. Bouchard moved, second by Mr. Lentz, that the Planning Board accept PB15-03 as Preliminary Plan, as presented and amended.

VOTE

4-0

Chair concurs

Mr. Beckert said that the Preliminary Plan stands approved, as presented and/or amended. He asked if, moving forward, there was anything else the PB wanted to see from the applicant on the Final Plan that will be presented on November 17th; any additional information, anything.

Mr. Bouchard asked if we would have a final, exact location on sewerage.

Mr. Randall said yes; that we are doing more test pits later on this week for the septic systems; that he does have a couple of submissions for the PB for the 17th that kind of showed that location. He added that the Final Plan we are going to submit on the 17th to discuss on the 1st – the 17th submission is pretty close to that Final Plan; that we just don't have the actual recording documentation; that we can go through it then and make sure there are no issues with that, going forward. He said that, with the two-week lag, it's difficult because we have a meeting the same day that we actually submit; that you'll be getting plans on the 17th and then the actual Final Plans will be submitted that same day.

Mr. Lentz said that it was his expectation that we're not going to approve the Final Plan the next time we get together.

Mr. Randall said exactly, but it just keeps the discussion going. He added that he did want to recall that Mr. Libbey had a couple of items.

Mr. Libbey said that, if the PB could see this section 'here', which feeds the driveways to these right-hand four at the other end of this lot and, also, see this paired driveway that feeds 'these' two units and 'this' unit; that these two driveways are arranged to meet the Town requirements of no more than two units per driveway; however, meeting that requirement increases pavement and, to his esthetic, or holistic, view that's not as good as it could be if we were willing to allocate one driveway to 'these' four and one driveway 'these' three; that he wondered if the PB would look upon that with favor or disfavor.

Ms. Horner asked if this was a new idea.

Mr. Libbey said that it was.

Mr. Randall said that Mr. Libbey wanted to bring that up and he quickly put a drawing together so that the PB could see what it, theoretically, would look like.

Mr. Lentz said that he believed, initially, Mr. Falzone had talked about some sort of a horseshoe to eliminate all those...

Mr. Duncan said that that was up front.

Mr. Falzone said that we were just doing multiple driveways to comply and we're paving more; that Mr. Libbey asked and he said to ask the PB to see what they think.

Mr. Bouchard asked what the length was.

Mr. Randall said that 'this' driveway was about 350 feet and about 400 feet for the back, right 'there'; that 'this' one was about 200 feet and 'these' are similar, about 350 feet or so.

Mr. Duncan asked what the intent was down the road as far as maintaining these driveways, plowing them in the winter, and that sort of thing, asking if we had gotten that far in the process.

Mr. Falzone said that the homeowner's association has to maintain them, sand them, and plow them.

Mr. Duncan said that the individual homeowner won't be responsible for clearing any of those driveways.

Mr. Falzone said that that was correct.

Mr. Lentz asked what the proposed width was of those driveways.

Mr. Randall said that, right now, they are about 12 feet; that they can go up to about 16 feet, depending on whether we put shoulders on them, or not.

Mr. Bouchard asked Ms. Pelletier what that did; did it make it a street.

Ms. Pelletier said that it's funny because the only mention of driveways in the entire ordinance is in Chapter 1, in the definitions; that nowhere is it mentioned that anything even needs to have a driveway; that if you do have a driveway it must meet this definition, which is a vehicular access to no more than two lots and not more than 500 feet. She added that there are no construction standards, just that it be suitable material, so, the dilemma is what do you do there.

Mr. Duncan said that, technically, it's not to more than one lot, alright, because there are more than two units.

Ms. Pelletier said that the intention was whether these were attached or detached; that it's probably safe to assume that each unit gets a driveway.

Mr. Randall said that the definition says if you have two single-family dwellings so he thinks that's how we calculated.

Ms. Pelletier said, okay, so two single-family units on one driveway; that what you could do – the difficult way to get around that, she guessed, because the other side is that a road is defined as any access to three, or more, lots – so, if you are a road, you have to meet all of those standards in Chapter 37, which the PB can waive; that you could waive down those standards to a driveway standard; that that's the difficult way to do it. She added that she wasn't sure what to tell the PB about that; that the advice she has been given by attorneys is that you can waive a definition associated with the chapter, so that the PB doesn't necessarily have a waiver provision over Chapter 1 but, because you extracted all definitions out of every chapter and moved them into one chapter, if a definition is associated with a particular chapter, the PB has the ability to waive provisions in that particular chapter; that, then, it would stand to reason that you could waive that definition, too. She added that you have to be very careful, there.

Mr. Duncan said that he could understand the rationale for restricting no more than two separate, stand-alone, single-family homes just because they would be responsible for maintaining that driveway; that under this environment, he thought, he would defer to Fire and Police to see if they have a preference, as far as safety and emergency response to one or more of the units in the event of 'this' configuration versus 'that' configuration.

Ms. Horner said that she knew that this was an idea that Mr. Libbey had but is this something you guys even want to do.

Mr. Falzone said that it makes sense but our feeling was that people, here, waiver, and we didn't want to cause going to the guillotine.

Mr. Beckert said that the PB needs to remember that the applicant met the requirements of the ordinance with the original proposal; that this is being offered up to create a situation where there is less impervious surface.

Mr. Bouchard said that he understood that but he has an issue with safety with the four on the one.

Mr. Beckert said certainly; that the PB can certainly go with the initial proposal; that he thinks the applicant is asking for guidance moving forward.

Mr. Bouchard said that he understood that.

Mr. Duncan said that he doesn't see this as a critical issue that is going to delay the final response to this application, asking if Mr. Randall did.

Mr. Randall said yes; solely because of the timeline; that what we really want is some direction from the PB that, if this is feasible from the Fire standpoint, and your standpoint...

Mr. Bouchard said that you asked for direction but asked if you are looking for a decision.

Mr. Randall said no; that he would like direction basically saying that, if this does meet Fire and Safety requirements, and waiver requirements, that the PB would prefer to see 'this' versus what you see now. He added that, that way going forward, he can produce a plan that, on the 17th, he can submit and the PB can discuss; that if the Fire Department says no then we just won't bring that up at the next meeting and we will continue on the course that we have; that if this is something that the PB really wants to see and agrees with us that this is probably best for all roads, even though it includes a waiver, we would do our due diligence and do our best to make it happen.

Ms. Horner asked if this was just a reflection on our ordinances, because, honestly, this makes a lot of sense.

Ms. Pelletier commented that, yes; that, as we always say, they are living, breathing documents – these ordinances – and we never flush out all the flies...

Ms. Horner said that a part of her thinks that it may have been designed this way, anyway, except that they were trying to meet our ordinances, which then reflected on the 'two roads with two driveways'. She said that she would assume that any architect would be, like, this would be so much easier.

Ms. Pelletier said yeah; that when she was looking at the estimated trip generation from this use and the Institute of Traffic Engineers Trip Generation Manual (ITE), they consider a driveway...that anything serving six homes, or less, could be a driveway; that that's their view on it and she kind of found that amusing; that she happened to see that in there but she was sure you could find many different standards.

Ms. Horner added that it was all based on the project, too.

Mr. Falzone said that we are just looking for direction, subject to us going to the Fire and Police.

Mr. Beckert said right.

Mr. Falzone said that, telling you, we realize that, if they say we need another waiver and you don't want to hear that, then we won't suggest it.

Mr. Beckert asked for the PB's pleasure; how do you want the applicant to proceed.

Ms. Horner said that that is their decision; that they knew that, if they wanted to do this, they would have to submit a waiver; that if that is something that the applicant wants to do, then the applicant should put it before the PB.

Mr. Falzone said that we want to do it if the PB supports it.

Mr. Bouchard said that you're asking us for a decision, right now, and you're not going to get it.

Mr. Falzone said no, not a decision, just guidance.

Mr. Bouchard said that he understood what the applicant was saying.

Mr. Randall said that he thought that good dialogue between the applicant and the PB is always the best.

Mr. Bouchard said that his dialogue on the four units is that he is going to want it to street specs to go to four units, which would require a waiver, and he doesn't know what he's going to say on that, right now.

Mr. Duncan asked if Mr. Bouchard meant street specs as far as construction or width, what is he interested in.

Mr. Bouchard said that he would like to see what the Fire Department says, what the Chief thinks about width, fire apparatus getting in and out, and if the width meets minor street; that the Chief may say that it needs to be street within specs and, if it's going to go to width, he wants the specs to it.

Mr. Duncan asked if he was including subbase, and all that sort of stuff, just because of the weight of the fire trucks.

Mr. Bouchard agreed it was the weight and the traffic; that the unit #9 down at the end is going to go past every single one.

Mr. Randall said that we can definitely do that.

Mr. Duncan said that, if the applicant is looking for his guidance, he would say talk to Fire and Police to see what their reaction to it is. He added that, physically, he likes it better than all this spaghetti that's coming off of the cul-de-sac; that it reduces some of that hassle that might occur when two cars are trying to exit the "driveway" at the same time.

Mr. Randall said that, in your street and design standards, the 'minor street', which is less than 15 lots and an 18-foot wide street, they are very close to that now; that he believes that the details we have for the driveway come very close to meeting your street specs; that it was very feasible.

Mr. Duncan said that he thinks we need to be careful because, if we're going to start calling it a street, now we're extending the length of the street; so, it is a driveway, it's just that we need to be thinking a little bit about the wear-and-tear that it may take. He added that he thought that was what Mr. Bouchard was getting at.

Mr. Bouchard said yes, adding that it's not a driveway right now, the way they are proposing it, because it has four units and you can only have two units on a driveway.

Mr. Randall said that we would probably need to get a waiver for the definition of driveway.

Ms. Horner said that she is supportive of whatever comes before her; that if the applicant wants to present something then she is willing to look at it.

Mr. Beckert said that what he is hearing from the members of the PB that have spoken is that the PB would consider this layout if the Fire Chief and the Police Chief review it and come back with positive comments on it, and how it can be met.

Mr. Whalen asked the applicant if those driveways were intended to be paved or dirt.

Mr. Randall said paved.

Mr. Beckert asked if that was a pretty fair assessment of what the PB wants to see to be able to consider this.

Mr. Bouchard said that, even to consider it, he would like to just hear, first of all, from the Fire Chief, especially; what he has to say.

The PB agreed with Mr. Beckert's summary **by consensus**.

Mr. Randall asked if the letter the PB received from Michael Cuomo meets the PB's requirements for the waiver.

Mr. Duncan said that he would just like to see Mr. Cuomo's positive response that, in his opinion, the soils meet the demand that this development would place on the soils.

Mr. Lentz said that he thought that, in essence, that was the message last time.

Mr. Duncan said that he understands what Mr. Cuomo has written in that he concurs that this is a high-intensity soils survey and that a couple of things are going to be done to address his specific concerns as to what he deemed, in his opinion, to be incorrect, but, just ask that we get a paragraph from him saying...

Mr. Randall apologized for interrupting but, when you guys were discussing #11 on the Preliminary Checklist, we were already going to our soil scientist to certify that; that since Mr. Cuomo has already assured us that what he's said are out there, is out there,

would the PB be satisfied when Mr. Noel writes the letter about Option 11; that Mr. Cuomo went out there and basically said yes; that he can show the PB the areas which won't affect this project that Mr. Cuomo said needed to change; that that Option 11 is basically a staying order.

Mr. Lentz said that he would be alright with that.

Ms. Pelletier said that she was going to say the exact same thing.

Mr. Beckert said that he was hearing to get the letter from Mr. Noel.

Ms. Horner said that everything – a, b, c – under §41-215, preservation of natural resources and scenic beauty she would like to see and, also, §41-216, which she does know we discussed at the previous meeting, and it was stated that there aren't any historical features, but she just wants to make sure, if that is applicable.

Mr. Randall said that he doesn't believe there are any historical features; that it kind of lists them in the Comprehensive Plan as different buildings and there are no buildings on this lot. He added that the only thing that comes close is there is a possible cemetery right at the beginning but we aren't even dealing with that area. He said that that is on the existing conditions plan.

Ms. Bennett said that she would just ask that we get larger plans next time; that it's kind of hard to read in this format.

Mr. Duncan said that he was happy with just working with this size at the desk but it certainly would be helpful, he thought, if there was at least one or two copies that we could pass around.

Mr. Whalen asked if we had, or do we need, anything from the Kittery Water Department indicating that...

Mr. Lentz said that we have it.

Mr. Randall said that you have that they have an adequate supply; that on the Final Plan they are going to have to sign off on that.

Mr. Beckert said that the Kittery Water District has more than enough water to supply anything that's developed in this foreseeable area; that they have been pushing water for years.

Mr. Randall said that they have adequate water and we are going to have to get them to review the plans.

Mr. Duncan asked Ms. Pelletier, to follow up on Ms. Horner's earlier comment on Historical, if we could just reach out to the Historical Society to see if they have any reason to believe that there's anything out there.

Ms. Pelletier said yes.

C. Application to establish a home business engaged in furniture-making at 186 Pleasant Street. Applicant is George Beland (mailing address: 855 Islington Street, Portsmouth, NH 03801). Owner is Pamela Newland (mailing address: 14 Park Street, Eliot, Maine 03903). Property can be identified as Map 1/Lot 65 and is located in the Village Zoning District. (PB15-17)

Mr. (George) Beland was present for this application.

Mr. Beland said that, essentially, he is looking to locate a small furniture manufacturing business that he has into the lower level of the barn/garage, at 186 Pleasant, below-grade on three sides; that the space is 1,200 square feet and there is adequate parking. He added that it is not a conforming structure and he went to the Board of Appeals and got a waiver on the setbacks.

Mr. Duncan asked if this was an existing structure.

Mr. Beland said yes.

Mr. Duncan said that the applicant said 1,200 square feet but, doing a little math, the dimensions the applicant put on the building come to up to a little over 1,300 square feet, asking the applicant if he was planning on using only 1,200 of it for this purpose.

Mr. Beland said that those are exterior, including the eaves, but it comes out to be 1,222 square feet inside. He added that it's moving a business that occupies almost that same footprint and abuts the bedroom of a condominium, and has for 10 years, so he's fairly comfortable that he will be able maintain and make it work.

Ms. Pelletier said that she was just going to explain; that she didn't know if they remembered Elmer Richardson but he had his business in this building for years; that somehow he never got approval and it went undetected all those years in a building that didn't meet standards and didn't come before the PB for a permit; that Mr. Beland was left with that mess to clean up. She added that, in order to comply with the Home Business requirements, whatever structure your Home Business is in, whether it be the principal or accessory, it has to meet the same setbacks as the principal structure. She said that he didn't meet the rear setback so we got it waived to 14 feet, down from 30.

Mr. Lentz asked if the principal structure was the applicant's home.

Mr. Beland said that it will be; that there is a Purchase & Sales Agreement contingent on the business coming in.

Mr. Lentz asked if the applicant knew the square footage of the principal structure.

Mr. Beland said that it's 1,200 square feet and, currently, it has a second floor that is unfinished. He added that the top two floors of that barn won't be used for the business. He added that, once the second floor of that building is finished, it will be more square footage than the business part of it.

Mr. Whalen asked the applicant to explain this site plan, please, to us so we know exactly what's happening, here, on this property.

Mr. Beland said that the regulations require that there are parking spaces for the residents and, then, parking spaces for the business, allowing up to four. He added that, within the setbacks, there could be spaces 'here' but this is not currently a paved thing; that 'these' are two garages, 30'X16', with 'this' one below grade and 'this' one above grade.

Mr. Whalen asked if this was the entire property boundary.

Mr. Beland said yes; that 'this' rectangle that enclose #1 and #2 is a garage on the building and, then #'s 3, 4, and 5 are outside spaces that have the correct setback for those parking spaces; that these are 10'X20' spaces.

Mr. Duncan said that the upper two stories of the barn are unrelated to the business but asked if they were used in any way.

Mr. Beland said that they were used as business storage; that he doesn't plan on using it for anything related to the business. He added that the second floor is quite nice and directly connects to the living space.

Mr. Duncan asked if there was any hazardous material, disposal of hazardous waste.

Mr. Beland said that the last page is a list of the things that he has; that he just went through and inventoried everything he currently has.

Ms. Pelletier said that she sent that to the Fire Chief.

Mr. Beland said that the acetone and lacquer are generally things he uses to clean things up with.

Mr. Whalen asked if he had power equipment.

Mr. Beland said he did.

Mr. Whalen asked what the applicant's hours of operation were.

Mr. Beland said that he is usually up and working by 7AM but he doesn't run the machines until 8:30AM; that he usually doesn't work past 5PM or 6PM, in terms of

running machinery. He added that he looked at what the laws are with regard to the noise, and all of that, and that's all stuff that he is certainly very comfortable with; that, as he's said, he's abutted a condominium and this will be below-grade on three sides; that he's not concerned at all about being able to work with the neighbors.

Mr. Whalen asked the applicant if he had a dust collection system.

Mr. Beland said that he did; that he has two dust collection systems; that this space is slightly wider than his current space and he would like to put both of those onto one system that he currently has with the chip-set breaker; that he currently has two different dust collectors, one for the table saw and one for the planer/joiner.

Mr. Whalen asked if that was collected inside.

Mr. Beland said that they are inside.

Mr. Bouchard said that he was going in that same direction, not being familiar with the location, with waste and noise; that he knows a wood shop is very noisy and maybe someone on the Board could help him but planers, and stuff like that, asking how close are houses.

Ms. Horner commented that he won't be any louder than anyone else who lives in that neighborhood.

Mr. Beland discussed the GIS map of the neighborhood that showed the distances from his property to neighboring properties. He added that, in terms of waste and dust and things along those lines, most of his waste is actually...

Mr. Bouchard clarified that what he meant by waste is disposal, liquid, having waste picked up, storing waste on-site, drum storage, chemical storage, drummed waste.

Mr. Beland said that, in the past, he has actually taken the waste to the chemical bay at the Portsmouth Transfer Station, and that's been about a gallon; that it's not drums, or anything.

Mr. Bouchard said to Ms. Pelletier that he was guessing any waste would be addressed by the Fire Chief.

Mr. Beckert said that the applicant's insurance company would probably address that.

Mr. Beland agreed that they definitely would; that they had some questions about that.

Mr. Beckert said that they kind of set down the rules as far as flammable storage lockers, etc.

Mr. Bouchard asked the applicant if there was any dealing with any wood waste or anything with dumpsters, or anything like that.

Mr. Beland said that, no, there wouldn't be any of that; that his wood waste is generally solid wood, not plywood or anything like that; that there is some of that but it's probably two rubbish barrels a week, perhaps. He added that, in terms of scrap wood, he's never had a problem in just getting rid of it to people who burn wood.

Ms. Pelletier said that next steps would be a public hearing and whether the PB wants to do a site walk.

After some discussion, the PB agreed to do a drive-by site walk and schedule the public hearing for November 17th.

D. Review draft amendment to §45-405 footnote (c) to clarify provisions related to setbacks of accessory buildings.

Ms. Pelletier said that this relates to when Victor Castillo came and asked the PB to take care of this; that we also got a letter from the BOA asking us to revise this issue. She added that because she thought we could do this quickly we might as well get this going. She said that the issue is that accessory buildings, like sheds and things like that, are not allowed in the front yard, which is defined as any portion of the property between the front lot line and the front of the structure. She added that that could be 500 feet, 1,000 feet; you can't have a shed in that area. She said that it's constantly a problem; that typically accessory buildings only have to meet the setback of 10 feet so she has left the setback at 10 feet for the side and rear property lines and, then, just clarified that the front yard setback of 30 feet, or you can make it 10 feet if you want to.

Mr. Beckert said that 30 feet is what the actual front yard setback is for the structure.

Ms. Pelletier agreed, for the principal structure; that she thinks that was probably what the intention of that ordinance was, initially; that it just didn't get written that way, the terminology was a little off. She added that this issue comes up a lot; that you also have people, like Mr. Castillo's case, where he is on a corner lot and has two front yards.

Mr. Duncan said that that applies here, as well.

Mr. Beckert said that was another issue in how you can have two front yards.

Ms. Pelletier said that she changed around some of the definitions because, again, we have that weird combo definition that is for an accessory structure and for an accessory use, so, she broke those out into two separate and distinct definitions.

Mr. Lentz said that that was much clearer.

Ms. Pelletier said that the other problem she and the CEO always had was trying to determine what is subordinate to the principal structure - is it by floor area, is it by footprint, is it by total - so we just made it by footprint, which is the easiest way for somebody, because we're supposed to be able to clearly tell that it's clearly subordinate.

Mr. Lentz added that that would be true even if you are aggregating more than one accessory structure; that the total would have to be less than the footprint of the principal

Ms. Pelletier agreed. She said that another argument people want to make with this is that they want to build what they call a barn; that we've always allowed those to be an agricultural use but that would be the one exception to an accessory building that can be bigger than the house - an agricultural building. She added that what people do is build what resembles a barn but is used for a completely different purpose, like a home business or an apartment, or something, but that's not a barn; that she clarified and made a definition in here of what an agricultural building is.

Mr. Whalen said that he still has great difficulty trying to understand why an accessory structure cannot be larger, square-footage-wise and footprint-wise, than a main residence. He asked what the reasoning behind that was.

Ms. Pelletier said that it's no longer accessory; then it's the principal use.

Mr. Whalen said that we have to compare apples to apples, here, saying that it's one thing if that accessory building is going to be used as a residential unit, such as the primary structure, but what is the problem with allowing a building that is not being used as a residence, if you will, being larger than the residence - a large non-agricultural use structure, such as a garage. He asked, if he wanted to build a detached garage on his property that is bigger than his home, why he should not be able to do that.

Ms. Pelletier said that that subordinated the principal use of the lot, which is a single-family dwelling; that you're venturing into becoming a new use, a new principal use; that you may then be considered a commercial lot.

Mr. Whalen said that if he had a collection of cars or a collection of tractors or a collection of boats and he wants to house them on his property, in a barn or a building that's larger than his home...

Ms. Pelletier said that if the people in this Town will buy that, her hat's off to him; but, for 150 years, this is always the way it has been written and she does not think, personally, that people would be supportive of that because, in their minds, it is junk and dilapidated; that that's what the associate, in their minds, with large accessory structures like that; that of you want to go down that road, we can, but she was just trying to correct the ordinance.

Mr. Whalen said that he was just trying to correct Mr. Dietrich, whose application we recently heard.

Ms. Pelletier said that, if his building was larger than the principal building, then he would have a full-on commercial use of that lot, which is zoned for residential purposes; that it's supposed to be for zoning and, depending on the area you're in, you're not in the Commercial/Industrial Zone out there but in a primarily residential zone and people don't want to look at that all day long.

Mr. Whalen said that, looking at the plan of this current application with Mr. Beland, if this thing were drawn to scale, that barn is clearly twice or three times the size of the principal residence and, yet, barring any unforeseen complications he trusts that this Board will allow him to be operating in that structure.

Ms. Pelletier said that that is an existing non-conforming structure; that it was built way before zoning ordinances were in place so it's allowed to remain, as long as the home business doesn't take up more than 1,500 square feet of that building; that that there's nothing wrong with that.

Mr. Whalen asked if this had ever been put before the Town for a change or is this the original language of the original ordinance; that you're proposing deleting the following definitions, asking if that has been consistent, or constant, from the original ordinance.

Ms. Pelletier said that that has been in there, she believed, since the 1990's.

Mr. Whalen asked if it had ever been put on the ballot to change it, at all.

Ms. Pelletier said not to her knowledge.

Mr. Whalen said that he would personally support changing that language and allowing that footprint and height to be aligned within the principal structure; that he would support that.

Mr. Beckert asked if there were other thoughts from the PB on what Ms. Pelletier has given us; that he thought it was good.

Mr. Lentz said that he thought it was very good.

Ms. Pelletier said that, if you just attach that gigantic garage to your house, your problem is solved.

Mr. Whalen said that he couldn't because of the topography of the land and the side setbacks.

Ms. Horner asked Ms. Pelletier to clarify, under 'accessory use', the words "...customarily in connection with the primary use."

Ms. Pelletier said that it just means usual and customarily; logical mind; that there's a strict club associated with a residential home – is it a shed, yup – it's just things that reasonably always happen, connected to the use of, a single family.

Mr. Duncan asked, within the dimensional standard table, if Ms. Pelletier could go over, again, what she's trying to do with these; that he understood that the intent here is to be within 10 feet of a side property line.

Ms. Pelletier said that that is how it is now.

Mr. Beckert said that none of that is changing; that the front yard setback is changing.

Mr. Duncan said that on a normal lot, not a corner lot, what Ms. Pelletier is suggesting is that that accessory use structure could be in front of the house.

Ms. Pelletier said right; so, right now, at the end of the dimensional table there is a bunch of footnotes; that Footnote C is associated with this; that it used to say that “accessory buildings will meet this requirement, provided they are smaller in size than the principal use and located no less than 30 feet from the principal building; accessory building shall not be located within the front yard”; that that is where that restriction comes in, so, she is deleting that and just clarifying that, instead of not being in the front yard, it's a front yard setback of 30 feet.

Mr. Beckert gave an example of something other than a garage or a shed; that right now, the way the ordinance is written, you couldn't put a gazebo in your front yard; nothing.

Ms. Pelletier said that anything would have to be at least 30 feet back from the road.

Mr. Beckert asked what was wrong with a gazebo in the front yard; that they are kind of nice.

Mr. Duncan agreed he didn't see anything wrong with that.

Mr. Beckert said that he was using that as different from a garage or a shed because some people will say they don't want 'that' ugly structure in the front yard.

Mr. Duncan said that, if you limit one, you've got to limit them all; that he would have to think about that.

Ms. Pelletier agreed that no final decisions had to be made; that this is the first draft.

Mr. Beckert said that he didn't see why it shouldn't be 30 feet back and, then, you know; that we had a couple in here one night, when we were talking about this year's back – that he thought their house sits 300 or 400 feet back off the road and, the way the ordinance is written now, they couldn't put any structure between their front boundary and where the front of the house is, which to him makes no sense.

Mr. Lentz said that, for the fellow who lived on the corner lot, either one of the streets could have been his front yard.

Ms. Pelletier said right; that he couldn't put anything on his side and now he would be able to 30 feet back; that she thought that going to 10 feet was a little too extreme.

Mr. Beckert said that 30 feet makes sense.

Mr. Duncan said that, if we're still interested in restricting construction in the front yard – if we are – an approach, here, is to essentially write a definition of front yard.

Ms. Pelletier said that we already have one.

Mr. Duncan said that right now you can have two, which doesn't, as Mr. Beckert said, really make sense.

Ms. Pelletier said that that's not really an issue, here; that the 'two front yard' thing – this is the only time it ever comes into play, in her time here, anyway. She added that never once has she heard that mentioned in any other context other than an accessory building not being able to be located there; that, then, they are doubly restricted because they have two front yards.

Mr. Duncan said that, if one were to define the front yard – street address, driveway access, and, then, you start getting horseshoes, L-shaped driveways – somehow we've got to come up with a definition of front yard that says there's only one and which one is it.

Several members of the PB asked why.

Ms. Pelletier asked what it would gain us, here.

Mr. Beckert added that, if you go with a setback and you have two front yards; that he doesn't agree with having two front yards, either, but, if you go with a 30-foot setback, you can build.

Ms. Pelletier said that a corner lot would be a little more restrictive in that they would have to meet that 30 feet twice but at least they wouldn't have to be restricted from having it in the entire side or front.

Mr. Beckert agreed that, now, they couldn't have it at all.

Ms. Pelletier suggesting the PB think about it; that nothing had to be decided tonight.

Mr. Beckert said that he thought what Ms. Pelletier has written is a lot better than what's there now.

Mr. Lentz agreed.

Ms. Pelletier said that the CEO looked at this, too, and she's given it a go.

Mr. Beckert agreed that he thought it was intended to be 30 feet; that the language just didn't get typed right.

Ms. Pelletier agreed; that she thought it was just a mistake because there's 'front yard' and 'front yard setback'.

Mr. Whalen asked what the next step was with this.

Ms. Pelletier said that we've got time; that eventually we'll need to, if we're going to move forward, have a public hearing to get it ready for a June warrant, so, probably by March we'd need to be done with it. She added that we can put it on a future agenda, you can digest it, and let her know if you have any suggestions.

The PB discussed having this on the December 1st agenda.

Mr. Bouchard said that he would just like to say, for the record, that it's funny how, when we do deal with an ordinance, or refining an ordinance, the public doesn't seem to want to partake of the process unless it's in their back yard; that he guessed that was just human nature. He added that it's just that there's been a lot of ill intent towards this PB and he does start to take it personally; that he didn't think that, in the four years he's been here, that we've been challenged on anything and lost on anything; that he believes we do a pretty good job.

ITEM 7 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS

There were no outstanding action items.

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 November 17, 2015 at 7PM.

ITEM 10 – ADJOURN

There was a motion and a second to adjourn the meeting at 8:33 PM.



Steve Beckert, Chairman
Date approved: 3/2/16

Respectfully submitted,

Ellen Lemire, Recording Secretary

Michael Cuomo, Soil Scientist

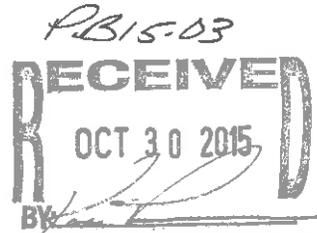
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Kate Pelletier
Planning Assistant
Town of Eliot
1333 State Rd.
Eliot, ME 03903

30 October 2015



Dear Ms. Pelletier;

At your request I reviewed the High Intensity Soil Survey prepared by Joseph Noel for a portion of the Libbey property on State Road identified as tax map 20, lot 13. This review consisted of a field visit with Mr. Noel and myself, and an office review of the test pit data and soil map report.

During the field visit, three areas were identified at the rear of the parcel where Mr. Noel and I agreed that modifications to the High Intensity Soil Survey were in order. Mr. Noel indicated that additional test pits were planned. Mr. Noel's soil map has a note which states "The soil map may be refined if additional test pits are conducted" and a similar note appears on page one of his report.

An error appears in the "Summary of Map Unit Physical Characteristics" table that appears at the rear of Mr. Noel's report. The Lamoine soils are mistakenly listed as Hydric soils.

In other respects I find Mr. Noel's High Intensity Soil Survey an accurate representation of the soil conditions at the site and in compliance with Class A Soil Survey standards.

Please contact me if you have questions regarding this work.

Sincerely,

A handwritten signature in black ink that reads "Michael Cuomo".

Michael Cuomo
Maine Soil Scientist #211



copy to: Joseph Noel, CSS #209