

**TOWN OF ELIOT
BOARD OF APPEALS
REGULAR MEETING**

December 15, 2011

Present: Edward Cieleszko, Chairman; Peter Billipp, Vice Chair; Philip Lytle; Jeffrey Cutting; William Hamilton and Ellen Lemire and John Marshall, Associate Members

Others Present: James Marchese, CEO; Barbara Boggiano, outgoing Recording Secretary and Linda Keefe, new Recording Secretary

1. 7:00 PM: ROLL CALL

Chairman Cieleszko called the meeting to order at 7 p.m. and introduced the Board members to the new Recording Secretary, Linda Keefe.

The first item Chairman Cieleszko brought up was the fact that the notice had not been posted in a timely manner for tonight's meeting. He said part of the confusion was that he had mentioned having a workshop instead of a regular meeting. He asked if the Board members felt comfortable holding the meeting, even though it was not posted properly.

Chairman Cieleszko said he did not have trouble with having a meeting because it is public knowledge that the Board of Appeals meets on the third Thursday of the month. He said he did verbalize that they would be having a meeting this week when he attended the last Board of Selectmen's meeting. Chairman Cieleszko said it was in the Board of Selectmen's minutes.

Chairman Cieleszko asked if the Board had any concerns about the public notice not going out.

Mr. Lytle asked why the notice wasn't sent.

Chairman Cieleszko said it was a mistake and that there is a lot going on at this time. No other concerns were voiced by the Board members and Chairman Cieleszko said he would continue.

2. Farewell to Recording Secretary Barbara Boggiano and welcome to the Board's new Recording Secretary, Linda Keefe.

Chairman Cieleszko spoke on behalf of the Board, thanking me for my years of service. He presented me with a Certificate of Appreciation signed by both himself and the Chair of the Board of Selectmen, Ronald Fernald. I thanked the Chair.

3. PUBLIC HEARINGS: None

4. REVIEW AND APPROVE MINUTES:

Chairman Cieleszko said the Board had the minutes of October 20, 2011 before them and asked if they had any corrections. Mr. Billipp had one, line 469 – the word should be "Superior" not "Supreme" Court.

Mr. Marshall moved to accept the minutes of October 20, 2011 as amended, seconded by Ellen Lemire. A vote was taken by a show of hands and the motion passed 5-1 (Jeff Cutting abstained).

5. OTHER BUSINESS AS NEEDED:

Chairman Cieleuszko asked if there were any end-of-the-year issues that needed to be mulled over or looked at.

Ms. Lemire asked about the “laundry list” that Mr. Billipp mentioned at the last meeting.

Mr. Billipp said the Board felt there may be issues that come up during meetings that should be addressed concerning zoning regulations, but he has not done the “laundry list” yet. He said it is something they should aspire to do during the new year.

Chairman Cieleuszko said it is every citizen’s right to bring some issue forward and asked the CEO to confirm that it is the Planning Board that has the authority to introduce any changes to the ordinances.

Mr. Marchese replied yes, that was correct.

Chairman Cieleuszko said that they can recommend something too, as Board members, just like they did with consent agreements. He said they could start a change to the ordinances, but he likes them the way they are.

Mr. Billipp said it is his personal opinion that, as they review the ordinances, they note things that need changing, such as definitions that are not there. He said at that time, they could hold an additional workshop after the meeting to address whatever point they found rather than letting the error go on unattended. He thought they should try to clean up the ordinances as they go along.

Ms. Lemire agreed, and said that the definitions need to be clarified, especially in the case with Mr. Gorman regarding the lot coverage.

Mr. Marshall said he thought the ordinance was clear, but what he found revolting was that a 70-year old man who pays taxes in this town, goes to work, and does services for everyone around him, cannot enclose his carport on his garage. He said he found that appalling and he would be happy to go on record.

Chairman Cieleuszko said Mr. Marshall just did.

Mr. Marshall said he would expect that to happen in a different country, not this one.

Mr. Marchese said he looks at the 20% lot coverage rule for structures and the Board should understand that it is not that restrictive, but Mr. Gorman does have a 3 car garage on a small lot. He said he has a lot of structures and he has to set limitations.

Mr. Marshall asked why.

Mr. Marchese replied because of the water running off often referred to as nonpoint source pollution.

Mr. Marshall said it is only one percent.

Ms. Lemire said only one percent or 50% but there is a cut off. She said that is the dilemma.

Mr. Billipp said Mr. Gorman had a 3 car garage with 3 doors.

Chairman Cieleuszko said that is why the Board meets – so that everyone can plead their case. He said no matter what they decide, if it is not appealed within 30 days then it is correct, whether or not it is right or wrong. He said he always needs to remind people of this point.

Chairman Cieleuszko said in the United States the jury has basic rights, but the court can overturn a law by neglect of using it. He said there are people who may do something illegal, and if the jury looks at the case history and says the people were doing whatever for the greater good, they will get away with it. He said the jury can say the person is innocent, even though he is getting away with a crime. He likened that to the Board of Appeals.

Chairman Cieleuszko said the Board has the ability to look at an individual in the town and this person may have such a clear case of injustice because of the ordinances, and the ordinance usually works, but we don't want to throw out the baby with the bath water, and the Board may be able to give the applicant what he wants.

A brief discussion continued.

Chairman Cieleuszko addressed the CEO and asked if he had anything he wished to add.

Mr. Marchese replied that he has been just putting out fires. He indicated there would be two cases that will be coming up before the Board soon.

Chairman Cieleuszko informed Linda Keeffe that she should submit an invoice for tonight since she is officially the new Recording Secretary.

Ms. Keeffe said she would appeal that since she had spoken with Dan Blanchette and she was just here tonight to watch and take notes. She said she had a question on the minutes, and asked what was the Board looking for.

Chairman Cieleuszko said the Board likes to have a lot of information in the minutes.

Ms. Lemire said the minutes should reflect as accurately as possible what transpired at the meeting because cases sometimes get appealed to Superior Court and it is important to have good information so the Court can determine what the intent of the Board was.

Chairman Cieleuszko pointed out that everyone's comments need to be recorded, so the Court can see the Board's deliberations.

Ms. Lemire suggested that Ms. Keeffe read prior minutes so she can get a flavor of what the meeting was about.

Ms. Keeffe asked if the minutes are up on the website.

Ms. Lemire said the recent meetings are, and she is in the process of sending her minutes to Wendy. Chairman Cieleuszko said that Ms. Keeffe could also contact Barbara Thain to read the minutes.

Mr. Hamilton emphasized that the Court is very interested in the Findings of Fact, which the Chair will summarize at the end of the hearing. He said the Board reviews them, but it is very important that they are recorded accurately.

Ms. Lemire said that polling the members of the Board on whether or not the applicant meets the four criteria for a variance is equally as important and needs to be included.

Chairman Cielezsko said that Superior Court reviews the Findings of Fact, but the Supreme Court reviews the entire minutes because the Board's intent is not shown in the Findings of Fact.

Chairman Cielezsko said that Bill Hamilton is the secretary for the Board and that when Ms. Keeffe is done with the minutes, she should send the draft over to Bill for his review.

Mr. Hamilton said that Ms. Keeffe could e-mail them to him and he will get them back to her as quick as he can. He said she should send him the minutes in a Word document.

Ms. Keeffe said she has Microsoft Works and was wondering if that would be a problem.

Mr. Hamilton did not think so and that they could work something out. He said perhaps she could print him off a hard copy and he would make corrections and get the minutes back to her.

Mr. Billipp mentioned the Notice of Decision letters and asked Ms. Keeffe if she had seen one.

Mr. Lytle gave Ms. Keeffe a copy of one.

Chairman Cielezsko pointed out that the Notice of Decision letters have to be mailed out to the applicants within seven days.

Chairman Cielezsko asked if Ms. Keeffe had any other questions.

Ms. Keeffe said she would probably have more questions as she goes along. She asked the Board members if they could identify themselves before they speak, until she can determine their voices on the recorder.

Chairman Cielezsko said that he will ask the Board members, one by one, if they have any questions of the applicant or the CEO as they go through each case.

6. ADJOURN:

Mr. Billipp moved to adjourn the meeting at 7:25 p.m., seconded by Mr. Marshall. Vote was taken by a show of hands, with all in favor. Motion passed to adjourn the meeting at 7:25 p.m.

Respectfully submitted,
Barbara Boggiano
Barbara Boggiano
Recording Secretary

Approved by: _____
Edward Cielezsko, Chairman
Eliot Board of Appeals

Date approved: February 16, 2012