

**ELIOT BOARD OF APPEALS
REGULAR MEETING
AUGUST 16, 2018
ELIOT TOWN HALL**

Present: Bill Hamilton, Chair; Ellen Lemire, Charles Rankie, Cabot Trott, John Marshall, alternate and Jay Meyer, alternate

1. Call to order: Chairman Bill Hamilton called the meeting to order at 7:00 p.m. and introduced the new board members: Cabot Trott, a regular member, and Jay Meyer, alternate. He welcomed them and said he has had meetings with each one and has given them materials that was put together by the Town Planner. He asked them if they had any questions at this point?

Mr. Trott and Mr. Meyer both responded no.

Chairman Hamilton said the information they have includes everything they need to review the procedure.

Mr. Rankie wished to be recognized and addressed the Chair. He said according to the ordinance on the Town Committees, Boards and Commissions we will have to nominate and elect officers at this meeting, which he saw is item #2 but in their BOA By-laws it says they have to review their by-laws at this meeting as well.

Chairman Hamilton said they approved their by-laws not too long ago and reviewed them fairly extensively but they certainly could revisit it.

Chairman Hamilton said they have a full house tonight but are missing one member. He said he hopes the Select Board is looking for other members. He turned to Ms. Lemire for confirmation.

Ms. Lemire said it is being advertised right now.

2. Nominations and election of officers:

Chairman Hamilton said they will be nominating a Chair, Vice-Chair and Secretary.

Mr. Rankie moved to nominate Bill Hamilton as Chair, seconded by Ms. Lemire.

Mr. Rankie said, without putting Chairman Hamilton on the spot, he has served on multiple boards and committees and he can honestly say he has never served under a better chairman than Mr. Hamilton. He said this is a big assignment and he should be elected again to keep things in order and to get closure is commendable.

Mr. Marshall moved that nominations cease, seconded by Ms. Lemire. A voice vote was taken, aye and voted 5-0-1, five in favor, none opposed, one abstention (Bill Hamilton). Motion carries.

Mr. Rankie said he would like to nominate out of order and moved to nominate Ellen Lemire as Board Secretary, seconded by Mr. Marshall.

Mr. Rankie stated that Ms. Lemire is completely capable of being Vice-Chair, but he felt, at some point, there might be a conflict because of Planning Board activity and they could have a difficult situation, where it would be wise to keep Ms. Lemire as their Board Secretary.

Chairman Hamilton asked if there was any other discussion?

Mr. Marshall moved that nominations cease, seconded by Mr. Trott. All were in favor by a voice vote, aye. Motion carries.

Chairman Hamilton moved to nominate Charles Rankie as Vice-Chair, seconded by Mr. Trott.

Chairman Hamilton asked if there was any discussion?

Mr. Rankie said that if Mr. Hamilton could not be present, he would but he asked that Chairman Hamilton coach him as much as possible. He said he remembered when Peter Billipp was nominated Vice-Chair and he asked him if he understood the seriousness of the job.

Ms. Lemire said Mr. Rankie had shared that he felt he was not qualified.

Mr. Rankie said he did, and if Chairman Hamilton cannot make it, he would have to be there, but it is a serious job. He said he that may have to call Maine Municipal Association for help.

Chairman Hamilton said he would not have nominated Mr. Rankie if he did not feel he was capable and he has no problem with nominating him as Vice-Chair.

Ms. Lemire said the hardest part is dealing with people.

Mr. Rankie said he can deal with people.

Ms. Lemire said then he will do fine.

Mr. Marshall moved that the nominations cease, seconded by Mr. Trott. All were in favor by a voice vote, aye. Motion carries.

Voice vote was taken on nomination of Charles Rankie as Vice-Chair, and five were in favor with one abstention (Charles Rankie). Motion carries.

Chairman Hamilton congratulated everyone and said, at their last meeting, it was brought to their attention with the Town Charter, they now have to make available a public comment period at the Board of Appeals meeting.

Mr. Rankie asked if they could have a discussion on their by-laws.

Chairman Hamilton said they can do that.

3. Discussion of by-laws:

Chairman Hamilton opened the floor for discussion.

Mr. Rankie said he thought they put something in their by-laws, which specifically mentioned the Board of Appeals members should not attend Planning Board meetings to avoid drawing conclusions about a

case that could come to the Board of Appeals if someone was appealing the Planning Board's decision. He thought that it would be healthy to bring this up now with new members

Mr. Rankie said that Mr. Billipp had worked on several drafts because he remembered the language was handed out at the meetings. He said that he remembered in June they discussed this what if someone watched this at home.

Mr. Marshall said he did not think they entered anything in the by-laws. He said they were discussing it in terms of a conflict of interest in a particular case.

Mr. Rankie said he thought they had to do that on a case-by-case basis.

Chairman Hamilton said they got an opinion in 2016 from Maine Municipal Association, which was verified by the Town Attorney that that is the way we should do it. He said it is probably not a good practice to attend Planning Board meetings that are likely to be appealed to the Board of Appeals. He said they should make their decisions at their meetings with their own proceedings and that decision is based on what is presented to the Board. He said if that is discussed by the Board, they would have to confirm if there is any issue of bias, but thought that is on a case-by-case basis.

Mr. Rankie asked if Chairman Hamilton could send that opinion out to all of the Board members?

Chairman Hamilton said he could do that.

Ms. Lemire said perceived bias, there is a difference.

Chairman Hamilton said we should all be "blank slates" when the Board comes together to listen to the appeal. He said they are not allowed to have contact with the applicant or get together before the meeting with the applicant nor are they allowed to visit the site. He said all the information needs to be brought to us at the same time because it is subject to appeals to the Superior Court as a potential bias issue.

Chairman Hamilton said this was brought up because Ms. Lemire is the Recording Secretary for the Planning Board and we were hearing an appeal on the Planning Board decision. He said that they asked her to recuse herself at that time.

Chairman Hamilton asked if there were any other questions?

Mr. Rankie said thank you, that is a good recollection.

Chairman Hamilton said he will e-mail out the opinion to everyone. He asked if there was anything else about the by-laws?

Seeing none, he moved on to item #3.

3. Public Comment:

Chairman Hamilton said if there was any public comment about the way they operate or anything else in town, not relating to the appeal, then they will have a short public comment period.

Ms. Lemire said she has never seen it.

Chairman Hamilton said he had not seen it either.

Mr. Rankie said from the perspective of the Board of Appeals, we should be able to put it on the agenda wherever they want.

Mr. Rankie said when he was involved with the Town Charter during the Charter process, nine members were on the Commission. He said there was time for public comment. He said the issue he has, if there is a big hearing, the Board could put the comment section at the end, but not in this forum. He felt when they have two parties waiting to come before us at the meeting, to have this public comment section before is not a good practice.

Chairman Hamilton said if there is a public hearing, when he creates the agenda, there is a good chance the public comment period will be at the end.

Mr. Marshall wanted to know if there is anything that says they have to have the public comment section in the beginning of the meeting? He asked if there was any limit to the length of time for the public comment, like 10 minutes?

Chairman Hamilton said it could be brief and he could announce it.

4. Review previous meeting minutes of May 17th, 2018:

Chairman Hamilton reviewed the minutes page by page.

Ms. Lemire asked if Chairman Hamilton, John Marshall and herself would be enough members to vote on the minutes?

Chairman Hamilton replied that a quorum is three.

Mr. Rankie wanted to know if they were e-mailed to him because he has not been getting any emails. He said he had abandoned his official Eliot e-mail since his time on the Charter Commission. He said he used one time when he was on the Harbor Commission for MMA.

Chairman Hamilton said that should be straightened out with Emily.

Mr. Marshall moved to accept the minutes of May 17, 2018 as corrected, seconded by Ms. Lemire. Voice vote was taken 3-0-1, aye, three in favor, none opposed and one abstention (Charles Rankie). Motion carries.

Chairman Hamilton said he will request that all members get copies of approved minutes.

5. Video Teleconferencing Discussion:

Mr. Rankie distributed copies of an excerpt from "An Ordinance Governing Town Boards, Committees and Commissions" to the Board members and to the Recording Secretary. He requested that it be attached to the minutes.

Chairman Hamilton said the document Mr. Rankie handed out is part of an Ordinance approved by the town's Select Board on April 24, 2014.

Mr. Rankie said he will read the issue but he would like to give everyone time to read it.

Chairman Hamilton said they will read it alone and said it is very specific. He asked if anyone had any questions?

Mr. Rankie asked if he could give some history.

Chairman Hamilton said yes.

Mr. Rankie said this went to the Select Board before it was approved with modifications to the "Ordinance Governing Municipal Boards, Committees and Commissions", but they were against this video-teleconferencing (VT). He said, in fact, the Select Board tried to force the Charter Commission to not use video-teleconferencing; however, they did not have jurisdiction. He said the Charter Commission is governed by the State statute. He said the Charter Commission and Budget Committee used video-teleconferencing and it worked well.

Mr. Rankie said it would work if the person coming in by computer connection is well-prepared. He said for work more specific than what the Charter Commission did and the Chairman would have to announce who is present in the room. He said, also, not more than 50% can attend a teleconferencing meeting without the approval of the majority of the Committee or Board members.

Mr. Rankie said if he personally was not able to make a meeting, he would defer to the Chair to appoint an alternate to vote in his place, but he could still offer his input. He said this came to him because he missed out on providing his input while he was out of town and not able to be present at two Board of Appeals meetings this past year.

Mr. Rankie said that, in order for this to happen, they would have to take proactive steps with the Town Manager, on how this is set up. He said the Chairman would have to have a video display in front of him.

Mr. Rankie said they used this primarily with Ed Strong when he was in Florida and most of the time they had a good connection and he provided quite a bit to the meetings. He said that Chairman Hamilton would have to have the display in front of him.

Chairman Hamilton wanted to know if the town has the hardware to pull this off?

Mr. Rankie replied they would have to.

Chairman Hamilton said this says "may" it does not say "have to."

Mr. Rankie said the town would have to have one or two laptops.

Ms. Lemire said one would not be for teleconferencing, it goes to meetings and one is utilized as the Town Clerk's back-up.

Mr. Rankie said the town can make sure it is available. He said the individual member would have to do something himself/herself to make their equipment compatible with it. He said he could "Skype" on his computer.

Mr. Meyer said "Skype" is one product, but there are a couple of other competitors out there that can be utilized.

Mr. Rankie said there was a problem with it when he tried to use it with Microsoft. He said that Skype is a proprietary system.

Ms. Lemire said she suspects the town has something other than "Skype" to use.

Mr. Rankie said let's say that the Chairman was not here, he would not be off the hook.

Chairman Hamilton said someone's face would be on the display and wanted to know if they have an appeal, and assumed it is contentious, and there are a lot of people in the room that would not see the missing member.

Mr. Rankie responded he would propose that, if the Board of Appeals adopts this idea, there should be a policy we come up with among ourselves regarding a person video-conferencing for a meeting, but he/she would not be a voting member unless there was no quorum and a vote was needed. He said it would present a "Wizard of Oz" type of feeling for someone.

Mr. Trott said he disagrees with Mr. Rankie. He said with our generation maybe it would seem like "Wizard of Oz" but not with people who are coming into this town. He said with most of them, that is second nature. He said his understanding is that if they can get all the materials in front of us but he was not sure if it was fair.

Ms. Lemire said we all have input, regardless of whether we are alternates or not.

Mr. Trott said this has to be planned out and not last minute and if all members have to approve and they are not meeting every month then what is the plan?

Mr. Rankie thought this is the forum and we will have to decide "yes" or "no." He said he liked what Mr. Trott said about being part of the older generation, etc.

Chairman Hamilton said one issue that troubles him, reading #10, it says that "persons utilizing VT may be counted towards a quorum for the board/committee's business and be considered "present" for the meeting". But sometimes written information comes from the CEO and copies are brought to the meeting that the person who is videoconferencing would not have access to. He said this may lead to some questions where the appellant would need to answer so the Board can make a judgement and he is wondering if they aren't opening themselves up to an appeal because the member videoconferencing did not have the same information that the rest of the Board would have in order to make a decision.

Mr. Marshall said they have to do things just right. He said this is an appeal and they are dealing with citizens on things that are very heavy issues to them and they deserve to have us hear them in person.

Mr. Rankie said that is not always possible.

Mr. Marshall said that is why the town has alternate members and if the Board does not have a quorum he thought the appellants would rather come back.

Mr. Rankie said the person who is before you and me to hear their case, he would not be a voting member, but he can still ask questions and participate in the meeting if he was videoconferencing.

Mr. Marshall replied there is something added when you have face-to-face communication as opposed to e-mail, where something could be read into it that might not be there or something may be read into it, and looking across the table, there are both sides and things that are able to be said are said.

Mr. Rankie said, as Mr. Trott pointed out, this is a different age and a different world we live in, and people do not read the newspaper any more.

Ms. Lemire asked if Mr. Rankie has done any research and is this being done by any other town boards?

Mr. Rankie responded this is a discussion.

Ms. Lemire said she is concerned.

Mr. Rankie said they should get feedback from MMA on this. He said the Planning Board and Board of Appeals would have more concern with this than the Conservation Commission or the Budget Committee.

Mr. Marshall said he could see maybe the Select Board or the Conservation Commission doing this, but we are dealing with individuals who, to them are heavy issues.

Mr. Rankie said they could have this meeting tonight.

Mr. Marshall said this meeting would be appropriate that way but when someone is spending money to do something they have their heart set on, they deserve us to be here to listen to them.

Chairman Hamilton felt that this is a last refuge for someone after they feel their decisions have not been made, and the buck stops here. He said that a member's image would be facing us and the appellants would not be able to see that person. He said he does not feel it is appropriate for this Board but he would explore it with Maine Municipal Association for a legal standing.

Mr. Marshall said that someone has to be there in the Legislature as well and cannot just call in.

Chairman Hamilton said they are trying to be transparent and he thought that what Mr. Rankie is suggesting is more for the Board and not for the public. He said he cannot support this for the Board of Appeals.

Mr. Rankie said that he has been thinking about this for a long time and sent the Chair a note asking to add this item on the agenda. He said he is asking Chairman Hamilton to contact MMA for their input and to think about this. He said he will bring it up again at another meeting rather than close the door and listen to what is being said.

Chairman Hamilton replied if it is the Board's decision, he can do that. He thought that it sets the Board apart from the public even more and if he were an appellant who was not savvy, it would look like a set-up to him. He said he could hear this guy voicing his opinions, but he would not be able to see him.

Ms. Lemire thought so too, and that concerns her.

Chairman Hamilton said this town has had issues in the past, not with this Board in particular, but he would not like that sense to go around. He said they try to be on the cutting edge but asked who are we cutting out?

Mr. Meyer said perhaps it might be a good idea to research the products that are available and if it looks to us that it would make sense but he did not know if that is what Mr. Rankie is looking at or if he could help.

Mr. Rankie said we could take a look at whether or not it is feasible, but wanted to know if the Chair could simultaneously contact MMA? He said he has a lot of confidence in their lawyers.

Chairman Hamilton said even though it is part of the ordinance, it is not in their by-laws.

Mr. Rankie said but it doesn't say they can't.

Chairman Hamilton said this is general to all Boards.

Mr. Rankie said it may not be allowed, but it is general to all.

Chairman Hamilton asked if the Board wanted to vote on contacting MMA.

Mr. Rankie moved that the Board task the Chairman to contact MMA to ask them for feedback on the feasibility, or the legal implications, on video teleconferencing into the Board of Appeals Meeting, seconded by Mr. Trott.

Chairman Hamilton said the alternate members will not be voting and there was some discussion on the outcome of the vote.

Mr. Marshall said the appointments were made before it was generally known at the Selectmen meeting by the Select Board. He said he did not know what transpired.

Ms. Lemire said they did not appoint anyone because they had to advertise the positions, but they accepted the resignations.

Voice vote was taken, aye and voted 3-1 three in favor, with one opposed (Chairman Hamilton). Motion carries.

Chairman Hamilton said he will contact MMA to see what they have to say.

6. Other Business:

Mr. Rankie wanted to know if Chairman Hamilton received a reply to his e-mail to the Town Manager?

Chairman Hamilton said Town Manager Lee did reply briefly and said he was working on it.

Mr. Rankie reviewed the March 12th e-mail from Chairman Hamilton regarding posting building permits on the town's website (a copy of which he gave to the Recording Secretary to attach to the minutes).

Chairman Hamilton said he contacted the Town Manager because he was interested in whether or not any building permits were issued in his neighborhood. He said the last list that was posted was May 17th.

Chairman Hamilton said that if an abutter does not realize someone was granted a building permit until 3-4 months after the fact, timeliness would not be met. He said part of the legal process is that the town needs to post these permits. He said he did not know what other towns are doing, but he felt it is incumbent on the town that the building permits be posted and they requested each Friday they be posted.

Mr. Rankie asked if that is under their jurisdiction? He said they need a complete packet before the meeting and that is why he brought it up. He said the Town Manager has not acted on it and as a citizen it irks him.

Chairman Hamilton said it is not under our jurisdiction. He said it is the Code Enforcement Officer's responsibility, but the Town Manager has to require it to be done.

Mr. Rankie said our jurisdiction is to make sure we receive a complete packet.

Chairman Hamilton said he usually contacts the Town Manager and once he is notified he can prepare for the hearing but the town is also required to post the notice and to notify abutters.

Mr. Rankie said this has been 5 months and is not acceptable. He said he knew that Chairman Hamilton copied the Select Board and they are the governing body, and he thought they would be excited about it, but it has died.

Ms. Lemire said things are not that good around here.

Mr. Rankie said true, but it is not our issue. He said whatever needs to be done, the Board needs a complete packet.

Chairman Hamilton asked who is issuing building permits?

Ms. Lemire said it is between Heather Ross and Amber Harrison.

Mr. Rankie moved that the Chairman contact the Town Manager and copy the March 12th previous correspondence expressing our deep concern that he has not resolved this issue or replied positively to the Board's request and copy the Select Board. Mr. Trott seconded the motion.

Ms. Lemire said they are jumping the fence.

Mr. Trott said that it would be a "friendly reminder" – but usually, in the case of other Boards, it does not work. He said this process is procedural, for timing and keeping it going. He said they are doing their end and he wants to make sure that their end is covered.

Ms. Lemire wanted to know if Chairman Hamilton got notified last month about tonight's meeting in a timely manner?

Chairman Hamilton said it is hit or miss basically. He said the usual procedure is he is notified by the Town Manager at the end of the month. He said if there aren't any appeals, the Town Manager usually gets back to him within a few days. He said, in this case, they are required to have this meeting, according to their by-laws, in addition to reviewing the minutes.

Ms. Lemire wanted to know, in those cases, when the town is notified, does the town get out everything to us in a timely manner.

Chairman Hamilton said he has to create the agenda which he sends to the Town Clerk and the Town Manager and to post it if approved. He said they have a 10-day window, and the time was within that window.

Ms. Lemire replied okay.

Mr. Rankie said this was originally brought up because it was published in the newspaper, that the public notification was not posted for the Planning Board. He said we requested that they get proof that the public hearing announcement was properly posted. He said they are trying to be proactive, and he was surprised by the Town Manager's reply: "he was really busy and would put it on his list."

Both Chairman Hamilton and Ms. Lemire said they did not recall that.

Voice Vote and show of hands was taken and four were in favor, 4-0-2, none opposed, two abstentions (Cabot Trott and Jay Meyer because they were not present at that meeting), motion carries.

Chairman Hamilton said he spoke with Mr. Meyer, who went to the MMA Legal Seminar which is periodically offered twice a year. He said he did not go to this one and asked if Mr. Meyer would like to share some of the material with the Board members what was discussed?

Mr. Meyer said it was basically a workshop on Land Use for Planning Board and Board of Appeals members. He said they introduced everyone to the process and they talked about FOA and public proceedings, public records and appropriate notice to the public. He said they talked about a quorum. He said one of the things they brought up was voting standards but, at that point, they did not have enough people asking questions. He said that they were told every member should be using a checklist for review.

Mr. Meyer said he is new to the process and it was a learning experience for him. He said he thought back to when he attended Planning Board or Board of Appeals meetings and how this tied in together. He said he also spoke to other people from other towns who told him they reached out to MMA quite a lot and he thought that the Board of Appeals does not reach out to MMA as much as they should.

Chairman Hamilton said he was not sure what Mr. Meyer meant when he mentioned voting standard.

Mr. Meyer explained that MMA had distributed criteria for review, and in this case, it was erosion and they all reviewed the criteria on a score card. He said the other one was traffic and another was Solid Waste and another was a water project. He said it is more of a checklist to have you identify how you would vote on each particular item.

Chairman Hamilton asked if this is an individual matter or does the Chairman keep score?

Ms. Lemire said she could see applying this to various cases.

Mr. Rankie said that sounds like it would be for the Planning Board and the Board of Appeals actually has a worksheet. He showed Mr. Meyer his copy.

Ms. Lemire said that Heather Ross was in the process of re-doing the application.

Chairman Hamilton said that Ms. Ross attempted to consolidate the application. He said it was more for what the CEO needs from us than what the Board needs to receive from the applicant. He said the applicant is required to fill out their response, but there is no room on this application and there needs to be a reason by the appellant why they are appealing the decision of either the Planning Board or the Code Enforcement Officer.

Ms. Lemire said that Ms. Ross had provided space for a brief narrative but that's not what they are looking for.

Mr. Rankie asked where are we in the process for hiring a replacement for the CEO?

Ms. Lemire said they are still in the process of hiring one.

Mr. Rankie asked if they were going to have a hearing. He said that the Chairman might have to take a visit (to the Town Hall) to make sure that the Board of Appeals doesn't get surprised.

Chairman Hamilton said there won't be any surprises for the Board, and stated that he does not like surprises.

Mr. Rankie said that he received something today from MMA for classes and he would forward that to Chairman Hamilton.

Chairman Hamilton wanted to know if Mr. Meyer was done with the information he received from the meeting?

Mr. Meyer replied yes, there was quite a bit of information to take in.

Chairman Hamilton said there is a lot to know.

Ms. Lemire said that Mr. Meyer has a pretty good start.

Mr. Meyer said that MMA spoke about the different types of variances.

Chairman Hamilton said variances are an exception to the Code and are not granted lightly. He said there is always a struggle.

Mr. Meyer said the purpose of them is to avoid an unconstitutional taking of property, but he wasn't sure how much the Board of Appeals addresses them.

Chairman Hamilton said the decisions they make are based on the ordinance and legal advice but the information MMA provided to the Board is related to Supreme Court cases. He said the Supreme Court is the only body in the State that sets a precedent. He said they need to try to become aware of it and apply this to our process.

Mr. Rankie said their job is primarily to administer the town ordinance, not about taking property.

Chairman Hamilton replied right, that is the case, but some interpretation of the ordinance is required and it is not as concrete as it should be. He said it is subject to evolution and things change but they still have to rely on the ordinance.

Ms. Lemire said the most currently approved ordinances have been codified so you can go online and find them. She said the Planning Board has been more active in reviewing the ordinances for clarification. She said there are changes coming so they need to pay attention. She said there are special variances that the lawyer recommended. She said they may not have to incorporate those into the ordinance but they should have a workshop with the Planning Board on the notion of waivers

Chairman Hamilton said he left that up to the town and that Ms. Ross mentioned changing the ordinance to allow non-conforming lots for shortening the setback requirements but he is not in favor of that. He said our ordinance struggle is not to make it more non-conforming.

Ms. Lemire said their goal is to make it less non-conforming.

Mr. Rankie said it has been changed. He said he has a non-conforming lot and it has a lesser setback than he a conforming lot.

Chairman Hamilton said it should not have.

Ms. Lemire said they have changed.

Chairman Hamilton said he believes it is the same – the ordinance was changed as far as accessory buildings are concerned.

Mr. Rankie said this was an accessory building.

Chairman Hamilton asked if there was anything else that Mr. Rankie wanted to discuss?

Mr. Rankie asked if he remembered back when they were accused of colluding.

Both Ms. Lemire and Mr. Marshall said they did not remember.

Mr. Rankie said it was for a conflict of interest and he requested an open hearing.

Ms. Lemire said she remembered that.

Mr. Rankie said this is a small town with 6000+ people and there are two new members on the Board that he has done business with. He said he is tasking the Chair to contact MMA and get guidelines from them so they do not run into this issue again.

Chairman Hamilton asked Mr. Rankie what is his question?

Mr. Rankie wanted to know if there is something that we are not supposed to do?

Chairman Hamilton replied the only thing we are not supposed to do is not have prior information on a specific appeal. He said we are not to have ex parte information or communication on a specific appeal apart from the proceedings the night of the meeting. Additionally, he said two or three members cannot get together to discuss a topic that has to do with the entire Board.

Mr. Rankie said this is sufficient, that we talked about this and reviewed it and no further action is needed.

Mr. Rankie asked if the minutes could reflect that we discussed this.

Mr. Marshall said, as an example, if three of us (Board members) discuss a case before the case was appealed in an intended meeting, it would be a non-announced, non-agenda, no quorum meeting.

Ms. Lemire said no one should be talking about a case.

7. Adjourn:

Mr. Rankie moved to adjourn the meeting at 8:34 p.m., seconded by Mr. Marshall. All were in favor by a voice vote, aye. Motion carries, meeting adjourned.

Respectfully submitted,

Barbara Boggiano
Recording Secretary

Approved by: _____



William Hamilton, Chairman, Board of Appeals

Date Approved: November 15, 2018

8-16-18

attach
to mins

8/16/18, 4:19 PM

BOA MEETING notification

Bill Hamilton <phineasgraphics2@gmail.com>

3/12/2018 11:05 AM

To Town Manager Copy Heather Ross

Dana,

In the past, under Administrative Secretary Barbara Thain, I was notified by the end of the *previous* month about any BOA appeals in order to insure proper posting requirements, agenda preparation, abutter notices, etc., and, most importantly, to allow board members to plan for a meeting and to prepare adequately for the public hearing.

This has not happened for several months. I've received no notifications and I've had to email you about any possible meetings.

Each month I receive inquiries from board members about possible meetings. I recently emailed you regarding a meeting for March and haven't heard anything back.

Clearly, this isn't working.

I'm asking that you establish a policy to have someone in the town office notify the BOA chair at the end of each month (or as soon as possible to still meet the posting requirements) *whether or not* an appeal has been filed and, subsequently, to also notify each BOA member.

I appreciate your immediate attention to this matter.

In addition, back in November, the BOA board asked that the following be considered for implementation:

Since there is a 30-day time limit in appealing any decision of the CEO or Planning Board to the BOA, it was recommended that the CEO post building permit decisions on a weekly basis (say on Friday), both in the Town Hall and on the Town's website.

The Planning Board's decisions are made both at public meetings and recorded on-line with streaming, but the CEO's decisions, we believe, are made only with the knowledge of the applicant and not posted publicly, even though they are filed with the Town.

The board felt that this, again, would help in issues of transparency and compliance.

Has this been implemented?

Thank you.

Bill

Bill Hamilton

bill@phineasgraphics.com (<mailto:bill@phineasgraphics.com>)

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website notices, newspaper articles or paid newspaper notices. The Town Clerk should be notified of each board's normal process.

- (8) Boards shall record minutes of each meeting. Included in the minutes must be the names of the board members attending and those absent and absent as excused, a description of the business taken up (the level of detail is discretionary, but more detail is better than less), each motion for action by a member and the disposition of the motion (a record of the vote by name is not needed except where required to satisfy state law or requested by a member). The minutes shall be approved by a majority of the members. The original of these approved minutes shall be signed by the board chairperson or secretary in accordance with the board's rules of procedure and filed with the Town Clerk as soon as possible. Minutes will then be posted the Town website.
- (9) Meetings may be held and any official business or action may occur only with at least the required quorum of members who are eligible to vote being present. A simple majority (unless otherwise stated in law or ordinance) of the quorum or more members present and eligible to vote will carry the vote. A member who disqualifies himself or herself or is disqualified by action of the board will not be counted in determining a quorum. At a scheduled meeting, if fewer members than the legal quorum are present, then the secretary should record the attendees and the absentees and note that "NO business of the board was conducted due to lack of a quorum" and the members should then adjourn. If a meeting begins with a quorum in attendance, but loses its quorum through early departures (or technological disconnect), the chair should announce the loss of the quorum and the record of the meeting should note the time of the announcement. (It is good practice for the record of a meeting to note late arrivals and early departures regardless of whether the presence of a quorum is involved.) Once a quorum is lost, the body may adjourn or, as noted above, may discuss, but not act on, the topics that are remaining on the agenda, or may schedule an adjourned meeting.
- * (10) Boards and committees may utilize video conferencing (VT) with approval of the Chairperson and a majority of the board/committee members as incorporated in the policies/procedures of the board/committee as long as they are held in Eliot, where citizens may attend. The VT participants must have all documents and materials available to those physically present at the meeting, and must attest to the Chairperson that they are prepared for the meeting. Video and audio reception must be clear enough for all board/committee members to participate, for the attending public to hear what is being said, as well as to establish the required record of the meeting. Once those requirements are met, persons utilizing VT may be counted towards a quorum for the board/committee's business, and be considered "present" for the meeting. The meeting may not be chaired by a person on VT, nor may that person function as secretary for the meeting. The VT participant must identify any other persons present (but not seen) in the location they are transmitting from. The number of board/committee members allowed in any single meeting to participate via VT must be less than 50% of the voting members of the board/committee. Alternate members may not count towards the limit, if they are not designated as voting members for that particular meeting.**
- (11) A motion that has been seconded will carry on a vote of a simple majority of the eligible members present and voting unless otherwise stated in law or ordinance. Each eligible member is expected to vote on each action of the board as presented. For the greatest service to the purpose of the board, any member who anticipates he or she will not be able to vote should step aside at the beginning of the procedure and allow an alternate to be