

**TOWN OF ELIOT
BOARD OF APPEALS
REGULAR MEETING
NOVEMBER 15, 2018
ELIOT TOWN HALL**



APPROVED MINUTES

Members present: Bill Hamilton, Chairman; Charles Rankie, Vice-Chair, Cabot Trott and Jay Meyer, Alternate

Members absent: Ellen Lemire, Board Secretary and John Marshall, Alternate

1. 7:00 PM ROLL CALL: Chairman Hamilton called the meeting to order at 7:00 p.m. The members introduced themselves. Chairman Hamilton said they have a quorum and all members will be voting tonight.

2. Public Comment: No one was present to speak.

3. Review previous meeting minutes of 8/16/18: Chairman Hamilton went through the minutes of August 16th page by page and asked if there were any corrections, additions or deletions. Several were noted.

Mr. Rankie moved to approve the minutes of August 16, 2018 as amended, seconded by Mr. Meyer. All were in favor by a voice vote, 4-0, none opposed, motion carries.

4. Other Business: Chairman Hamilton asked if there was any other business to be discussed?

Mr. Rankie wanted to know if Chairman Hamilton had received any correspondence from Maine Municipal Association (MMA) regarding video-teleconferencing?

Chairman Hamilton said he had received an e-mail back from MMA and it was they did not recommend it. He thought he sent that out to everyone.

Chairman Hamilton said the Board had asked him to seek advice regarding a conflict of interest and he has a copy of the response from MMA.

Mr. Rankie asked what about the MMA's opinion on video-conferencing, did the Chairman get any feedback?

Chairman Hamilton thought he sent that around and asked if everyone got a copy of the e-mail?

The Board members responded no.

Chairman Hamilton said MMA's response was basically it is not a good idea, particularly for the Board of Appeals as it is a quasi-judicial body and it is important for the people present for their case to see a live Board. He said a lot of times, during the proceedings, the Code Enforcement Officer, brings something in for clarification, or there is additional written material provided that someone on video teleconferencing would not be looking at. He said the main thrust of the argument is it is discouraged because one should react face-to-face in real time as opposed to have someone on a remote telecast.

Mr. Rankie wanted to know if they knew what was out there regarding recording devices?

Chairman Hamilton said he did not know.

Mr. Rankie said someone could abstain from voting, but would still have the ability to provide input.

Chairman Hamilton said that his preference would be to appoint a regular voting member.

Mr. Rankie said he would call in attendance via video-teleconferencing only if he was needed for a quorum.

Chairman Hamilton said he has difficulty with that line of thinking and he (Mr. Rankie) does not have the authority to video-teleconference. He said you are either an alternate or a regular member and you are now adding another tier and it isn't recommended by the MMA. He said you would have the information, but would not vote.

Mr. Rankie said he could provide his thoughts. He said this is a big job to pick-up and learn and the more time you have, the more experience you get.

Chairman Hamilton said he will send out the e-mail from MMA, they were adamant about this and there is no other Board of Appeals in the State of Maine that is providing video teleconferencing. He said their reasoning is that additional information could be provided regarding the appeal and it is not recommended.

Chairman Hamilton asked if anyone else had anything to discuss?

Mr. Trott said he did get the chance to attend the MMA training session for the Board of Appeals and the Planning Board members.

Chairman Hamilton asked for Mr. Trott's thoughts on that?

Mr. Trott replied the information you get in one night is not enough time to get a grasp on everything you have to do. He said that they only reviewed five percent of the material – procedures and what their responsibilities are. He said there was a lot of information and resources that are available.

Chairman Hamilton said they (MMA) get back to us on issues that come up and, in some cases, they get the Town Attorney to collaborate with them on State guidelines that the Board needs to follow.

Mr. Trott said it was worth the long ride.

Chairman Hamilton said they are very helpful.

Mr. Rankie said it is too bad they don't have a second course.

Chairman Hamilton said particularly when it comes to things like variances, it is really tough.

Mr. Trott said MMA went through examples and he thought it would be easy, but then no, it wasn't.

Chairman Hamilton said variances are designed to be exceptions to the rule.

Mr. Trott said you have to make sure it is not a personal thing.

Mr. Rankie said the problem he has is he does not think the members are always clear on the variance.

Mr. Rankie said that it goes for the life of the property and people do not understand that. He said it is hard to say no.

Chairman Hamilton said we are not asked to be sympathetic, but we are.

Mr. Rankie said people can change the ordinance of the town if they want to.

Chairman Hamilton said the ordinance follows the State law, and it is not in contradiction.

Mr. Rankie said they should look at the video stream of the neighboring towns and what they grant for appeals and should not. He said one bad judgement on a variance that is given and that was a precedent. He said it would be helpful if Chairman Hamilton explained that to Mr. Meyer and Mr. Trott.

Chairman Hamilton said the Board of Appeals is the only board that cannot set precedent in Maine. He said the Supreme Court makes the ruling.

Mr. Trott said, as an example, a variance being granted obviously would have to change the ordinance.

Chairman Hamilton said any ordinance has to be reviewed by the Town Attorney and will be tested in Court eventually.

Discussion continued on the process.

Mr. Rankie asked what is the Board's membership?

Chairman Hamilton said they are down one alternate member.

Mr. Rankie asked if Mr. Marshall was a full member?

Chairman Hamilton said he applied to be a full member but he does not know what has happened.

Mr. Rankie asked who is the Code Enforcement Officer?

Chairman Hamilton replied Mark Mitchell.

Mr. Meyer wanted to know if the building permits have been updated regularly?

Chairman Hamilton said he contacted the Town Manager and requested that and they seem to be up there.

Mr. Rankie said we wanted to know if there was someone who can put agendas on the website; thus, no matter where we are, we can look and see if we have a meeting? He said he builds his schedule around the third Thursday of the month.

Chairman Hamilton thought that the process has been streamlined and he receives notification, usually around the first of the month, as to whether or not there is a meeting.

Mr. Rankie said he did not see anything posted.

Chairman Hamilton said he has to get that straightened out. He said when he gets notification about an appeal, he will send everyone a copy.

Mr. Meyer asked if they could discuss extending the 30-day period to file an appeal.

Chairman Hamilton said that is a State statute, we have no control over that. He said the Board has 30 days to schedule that appeal.

Mr. Meyer said he thought, when he went to the MMA training, that other towns had different periods.

Mr. Trott said they mentioned with some of the smaller communities in Maine, because of their ability to meet and they do not have a full body, they have issues. He said he recalled there was some discussion on that.

Chairman Hamilton said if an applicant does not appeal within 30 days from a decision of the Planning Board or CEO, they are unable to appeal the decision.

Mr. Rankie said if the town does not post building permits, its citizens do not have the opportunity to know what is going on.

Chairman Hamilton asked if there was anything else?


5. ADJOURN:

Mr. Trott moved to adjourn the meeting at 8:03 p.m., seconded by Mr. Meyer. All were in favor by a voice vote, aye. Meeting adjourned.

Respectfully submitted,

Barbara Boggiano
Recording Secretary

Approved 8-15-19

Approved by: 
William Hamilton, Chairman, BOA
Date approved: 8/24/19