

ITEM 1 - ROLL CALL

Present: Bill Hamilton - Chairman, Charles Rankie – Vice Chair, Ellen Lemire - Secretary, John Marshall, Cabot Trott, Jay Meyer – Alternate, Rosanne Adams – Alternate.

Also Present: Ms. Bishop - CEO, Deborah Parent – Recording Secretary.

Voting members: Bill Hamilton, Charles Rankie, Jr., Ellen Lemire, John Marshall, and Cabot Trott.

ITEM 2 –PUBLIC COMMENT PERIOD

There was no public input.

ITEM 3 – PUBLIC HEARINGS

Meeting was opened at 7:00 PM.

1st Public Hearing:

Mr. Hamilton stated we have two public hearings tonight. He briefly went over how the procedure will work. The hearing will be opened and then the requests will be read. We will determine the voting members and then we will determine whether there are any conflicts of interest among the voting members. If there are any conflicts, we have two alternate members and we will go to an alternate member if need be.

We will then determine the parties to the action. In cases of certain appeals, if it's an appeal of an administrative appeal for example, an appeal of a decision by either the CEO or the planning board. Then we will determine jurisdiction; what the Board of Appeals uses to apply to the appeal that's being considered. Then we will determine standing. The code ordinances require that any appellant must have standing to come before the Board of Appeals. Then we will determine timeliness. There are certain rules regarding timeliness in submitting certain appeals. Then we will determine the type of review, Appellate Review or de novo review. These are the two issues that will be clarified as we go through the process.

The way the appeal will go; the appeal will be opened for public hearing for the specific appeal, it will be read and then the appellant will be asked to present, after all has been determined. The appellant will be allowed to state their case uninterrupted and then questions will be open to the Board and abutters of the appellant. All questions are to go through the chair. Then all questions from interested parties will be asked/answered through the chair. Before closing the public hearing, the non-voting members can weigh-in on their opinions. After the public hearing is closed there will be no further public participation unless requested by the Board for more information. The Board then deliberates and will come to a decision.

Public Hearing Opened at: 7:04 pm

A. Theory Wellness of Maine 2, LLC, requesting a Reconsideration of Board of Appeals decision of January 16, 2020 regarding waiver of dimensional standards on property located at 151 Harold Dow Highway, Map 29/Lot 25.

Mr. Rankie asked, Mr. Chairman, it is my understanding, for us to have a reconsideration, we would have to make a motion and vote to have a reconsideration?

Mr. Hamilton stated, you are a little ahead of the game Charlie, hold on one second. I am opening the public hearing and first determining the voting members tonight. The voting members will be the 5 regular members of the board unless there is a conflict of interest. This is any member of the board. Does any regular member of the board have a conflict of interest as to what was related as the first public hearing? No conflict by any member.

The next item will be to determine parties to the action. In this case it's the Board of Appeals' decision that is being asked to be reconsidered. So, there are no other participants beside the Appellant and the Board of Appeals in this case. Standing: the appellant has indicated standing through a lease agreement, I believe, or a proposed lease agreement and had made that appeal at our 1/16/2020 meeting. The next issue is timeliness; a few items will be read from the Maine Revised Statutes Annotated. First item is Title 30A § 2691, which refers to the Board of Appeals and its section 3 paragraph F. Read into the record:

The Board may reconsider any decision reached under this section within 45 days of its prior decision. A request to the board to reconsider its decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote of the original decision. The board may conduct additional hearings and receive additional evidence and testimony as provided in just subsection.

Also read: The by-laws of the Board of Appeals that were adopted in 9/2017 and revised, that was the last revision. General Provisions of our by-laws, Section 9, which addresses reconsiderations of votes of the Board of Appeals. It's pretty much the same information that was derived by the Maine Revised Statutes Annotated.

Read into the record:

The Board may reconsider any decision reached under this section within 45 days of its prior decision. A request to the Board to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered.

And lastly, in our code of ordinances section, again this is being read into the record, section 45-50 L is essentially the same information, so both the Maine Statutes, the Eliot Code and our Eliot by-laws requires that any request for reconsideration come in within 10 days from our decision. Our decision was reached on 1/16/2020 and we received a letter that was hand-delivered by the attorney representing the appellant on 1/31/2020. This is 14 days after our decision. So, I'm bringing to the Board the notion that the timeliness in this case has not been satisfied and therefore the Board cannot review this request tonight for reconsideration.

Ms. Lemire states she agrees.

Mr. Rankie moved, seconded by Mr. Trott, that we deny the consideration.

Discussion:

Ms. Lemire asked, what is the motion based on?

Mr. Hamilton stated would you clarify the motion, please?

Ms. Lemire stated the motion needs to be based on discussion.

Mr. Rankie stated well that's discussion, is it not?

Mr. Hamilton stated it can go a couple of ways. We can either amend the motion to include your justification at this point or someone can make another motion that would supersede your motion.

Mr. Rankie stated well there's a motion on the floor.

Ms. Lemire said yes, because it's been seconded.

Mr. Rankie continued with, so that motion stands, my understanding and previous, to, can I explain, any motion whether we approve or do not approve any appellant before us is simply that motion to approve or not approve and then we discuss why we approve or don't approve in the discussion phase. So, I made a motion and it was seconded by Mr. Trott and if we are in discussion phase I will give my reasoning.

Mr. Hamilton stated okay, motion has been made and seconded to deny the appeal, the appellant's request for reconsideration.

Leah Rachin, Attorney for Appellant, stated, Mr. Chairman just a point of order if I may? My name is Leah Rachin. I am an attorney from Drummond Woodsum. I represent the applicant and the person requesting the reconsideration. I just want to address, obviously not the merits, but just the brief issue around timeliness, if I may? I am looking at the decision and the date of the written decision is 1/23/2020 and so, again, the 10-day period we would argue would run from 1/23/2020, which is the date of the written decision.

Now I understand there is a point of discussion as to whether it runs from the date of your verbal decision v. the written decision, but from a practical standpoint we have very brief submissions that, again from a practical perspective, we believe that there were two really basic things were got, that the Board from a procedural standpoint got wrong and therefore, in order to avoid an appeal that costs both parties time and money, we are looking for an opportunity to address the merits of those things. And briefly, the issue is that there was something that was raised at the hearing that the applicant did not have the opportunity to

Mr. Hamilton stated now you are diverging from your timeliness decision and I cannot allow that.

Ms. Rachin stated fair enough. So that's all I have as far as, we just want to have the opportunity to get it right so to speak, to avoid an appeal.

Mr. Hamilton stated okay, let me address that. I think case law is very, very clear as too when the appeal process begins. It begins on the moment that the Board moves the decision and this decision was voted on 5-0 unanimously on 1/16/2020 and at that point, the day after that decision is when the clock starts. It does not start when the Notice of Decision comes out 7 days later. I'm sorry, that's my ruling and I believe that's case law ruling. So that's where we are standing at this point, any further discussion?

Mr. Rankie stated yes Mr. Chairman, in addition to that decision there is also the video streaming record which is available. The request that I have received in my package here for reconsideration justifies the request by saying that we've taken an action that wasn't, I don't speak Latin and I believe the word in here means that we've taken an action on our own and not one that was requested, and it refers to whether there are residential considerations.

Mr. Hamilton stated Charlie, you are getting off the subject.

Mr. Rankie stated I don't think I am.

Mr. Hamilton stated this is a question only of timeliness and has nothing to do with.

Mr. Rankie stated Mr. Chairman, respectfully, I made the motion and my motion was based on the timeliness as well as ...

Mr. Hamilton stated your motion was based on neither timeliness nor any, you stated nothing other than to deny ...

Mr. Rankie stated my motion was based on to deny ...

Mr. Hamilton stated correct, not based on timeliness, not based on the merits of the case, sorry but I have to overrule you sir.

Mr. Rankie stated not being argumentative Mr. Chairman, the request for reconsideration that we are presented with in the body of that text justifies the request that the party made.

Mr. Hamilton stated we cannot hear this appeal unless it meets both timeliness and standing. It meets standing and my ruling is that it does not meet timeliness. It's the Board's decision and it's just my interpreting of the ruling based on case law. It's the Board's decision by vote as to whether that's correct or that's our own judgement tonight.... There's nothing else that we need to discuss in this case.

Mr. Rankie stated I follow your logic and I follow, it's very clear.

Mr. Hamilton stated the only issue we have in front of us now is timeliness. That has to be met, and I think most attorneys understand that issue. So, is there further discussion on this motion?

Mr. Trott stated Mr. Chairman, if Mr. Rankie would amend the motion to state, "Motion to deny on timeliness" ...

Mr. Hamilton stated you can make that motion, that motion can be seconded, there is a motion on the floor and that motion can be superseded, that second motion will be considered first and then the first motion will be taken care of. You can make that motion, and have it seconded.

Mr. Rankie stated I will remove my motion if Mr. Trott removes his second and places that motion on the table.

Mr. Trott responded, sure.

Mr. Hamilton stated so the motion has been withdrawn and the second has been withdrawn, thank you.

Mr. Hamilton asked, is there a motion on the floor?

Mr. Trott moved, seconded by Mr. Rankie, that the Board of Appeals deny the reconsideration based on Chairman Hamilton's decision of timeliness.

DISCUSSION

Mr. Hamilton stated further discussion. What I would like to also add is that after this motion, whether it's passed or whether it's approved or not, I would also like to have someone make a motion for, because the Board of Appeals has the ability to reconsider this without being asked within 45 days of our prior decision, I would like someone to make a motion on this Board to see whether or not this Board of Appeals would like to open this up, so it's not a timeliness issue in that case. So, depending on how we vote, either way, I would like a second motion.

Mr. Rankie asked, so another discussion might apply there?

Mr. Chairman stated, it might, yeah it might, and it is possible. So, we have the first motion on the floor and there is no other motion in operation, any further discussion? So, the motion in front of us is to deny the application for reconsideration based on the fact that it did not meet the standards of timeliness which has been outlined both in Maine Statutes, in the Board of Appeals bylaws and the town ordinance. Three instances, which are very clear that 10 days is the requirement, any other discussion on the motion? If not, all in favor, please raise your hand, all those opposed?

Vote:
5-0
Motion passes

Is there any other motion to be had at this point?

Mr. Rankie stated so, if I understand Mr. Chairman, we've denied ...

Mr. Hamilton stated we've denied their request for reconsideration. We have the ability.

Mr. Rankie stated so, if it were my intent to make a motion for us to generally deny, then it would be a redundant motion since we have already denied?

Mr. Hamilton stated except what it does is it puts us on record as saying that there is no interest by the Board of Appeals in reconsidering this decision that we made on 1/16/2020.

Mr. Rankie stated **okay in that case I move that in addition to the timeliness issue we deny reconsideration based on merit.**

Mr. Hamilton asked, is there a second?

John Marshall stated Mr. Chairman, I think the wording is, what Mr. Rankie would like to do, I think the result might not be the issue you are looking is that, I believe in State Statute we can only reconsider something one time or we can only look at reconsidering something, once. Once it has been looked at to be reconsidered and voted down, it can't be brought back up again.

Mr. Hamilton stated you are correct, but we haven't reconsidered.

Mr. Marshall stated we just did that!

Mr. Hamilton stated we did not reconsider, we just simply said we could not review this case ...

Mr. Marshall stated okay

Mr. Hamilton stated because it did not meet the timeliness standards. It wouldn't have mattered whether it was a motion for reconsideration or a request for reconsideration ...

Mr. Marshall stated okay so we were only looking at the timeliness and whether or not we could look at the request?

Mr. Hamilton stated that is correct.

Mr. Marshall stated I would think that Mr. Rankie would want to make the motion in the positive, that we do reconsider as a Board, and then we would vote it down, if that be the case, and then that would close the issue.

Mr. Hamilton stated either would be fine.

Mr. Rankie stated I can make that motion.

Mr. Trott stated second **the motion that Mr. Rankie had so we can get the discussion** ...

Mr. Rankie moved, seconded by Mr. Trott, that the Board of Appeals deny a reconsideration of our decision made on January 16, 2020 regarding Theory Wellness of Maine, LLC.

DISCUSSION

Mr. Hamilton stated motion has been made and seconded to deny a reconsideration of our decision of 1/16/2020 regarding the appellant, Theory Wellness of Maine, LLC. Motion has been made and seconded, discussion?

Mr. Rankie stated I'm somewhat timid about making discussion but I'm sure you will steer me in Mr. Chairman, if need be. The justification that I've been presented with for any reconsideration eluded to us going off the track and not being asked to determine whether there were residential considerations or not and as I look at the original application packet that we were presented with for our previous meeting on the 16th of January. Under item #1 we were presented with a statement that there were no residential abutters. And what we did was simply check the information we had and found that it was incorrect information. So that's why I have no interest in revisiting this, I believe the information was here, and we were presented with it and we addressed it.

Mr. Hamilton stated let me just for clarification, under our by-laws and Maine statute, the Board may conduct additional hearings and receive additional evidence, this is under reconsideration and testimony as provided in this subsection, but only if, (1) the record contains, factual, significant factual errors due to fraud or mistake regarding the facts upon which this decision was based, (2) the Board misinterpreted the ordinance, followed

improper procedure or acted beyond its jurisdiction or (3) if a second application for a variance on property where a variance was previously denied is substantially different from a previous one. So, these are pretty much the guidelines we have for us to ask for a reconsideration of a vote that we did, so is there any other discussion on this?

Attorney Rachin asked, Mr. Chairman, just again, a point of order if I may...

Mr. Hamilton responded, yes, sure.

Attorney Rachin stated, Thank you so much. So, I understand the timeliness issue, it's been asked, answered, it's been determined. But to your point, there is another avenue for reconsideration and two of the very criteria that you just mentioned, (1) mistake of fact, (2) misinterpretations of the ordinance, we would argue are very much the case. And we would like to have an opportunity to briefly, and respectfully point those things out and that is why we are asking for you to grant a motion for reconsideration. It's your own motion, not ours, because I know that you've ruled already that its untimely, our motion, but you certainly can do so on your own and for that we are asking for that opportunity because our pitch essentially falls within both of those categories that you yourself just enumerated.

Mr. Hamilton stated to follow your thinking I will allow a very brief presentation, I don't want to get into the details of what your argument is ...

Attorney Rachin stated until you rule on the motion? Am I to understand you correctly?

Mr. Hamilton responded, no, we've made a motion, we haven't closed the public hearing and we've opened the public hearing on our own because of our own interest in opening the reconsideration.

Attorney Rachin stated okay I think my question to you is a procedural one and I will certainly engage in my arguments to you based on that. What I'm trying to understand is that you have a motion pending, not so much to grant a reconsideration, but I thought you were even, the motion was to consider the reconsideration. I know it's sort of procedurally a funny thing but I'm just trying to figure out at this point, are you trying to say "yes" we will hear the reconsideration or are you asking for the actual merits of our?...

Mr. Hamilton stated we are just asking as to whether or not the Board feels that there is enough, from what I just read, and whether there is enough material for us to ask for reconsideration.

Attorney Rachin stated okay so if I can direct really precisely those two points, I would be happy to do that.

Mr. Hamilton responded, you may go ahead, briefly!

Attorney Rachin stated thank you. Okay so with respect to the mistake of fact, this is briefly what we would say is that; actually, let me start with the mistake of ordinance. When we are talking about that section that gives that 500' buffer zone it enumerates public, if I'm using the wrong words, but public facilities, like the post office say and "residential", I'm throwing finger quotes at you, because I think the term is residential properties;

Mr. Hamilton stated "Properties" is correct.

Attorney Rachin stated so okay, the essence of our argument is that this property, the subject property, is located in the commercial/industrial zone. If you look at the permitted uses in your land use table about what are permitted uses, residential properties such as single-family homes, such as multi-family homes, are actually a prohibited use in that zone. And so, from an ordinance interpretation standpoint, we are saying that you can't consider those to be residential properties, because those are not permitted uses in that zone, I understand that they are grandfathered so we get that, but even ...

Mr. Hamilton stated it's what we call non-conforming uses ...

Attorney Rachin stated non-conforming uses ...

Mr. Hamilton stated non- conforming properties which are allowed in any district ...

Attorney Rachin stated, understood. Fair enough. So, but what we are saying is the proper interpretation of the ordinance would have that. That's the first argument. The second argument is, even if they are, and you determined under the ordinance that these properties at issue, that were raised, I think, by, I don't know who, but one of the members of this Board, that there are residential properties in that 500' setback. What we are arguing is that the mistake of fact, and this is just, I'm just saying this to preserve for the record that there is an argument that the Board members are not supposed to be doing their own independent research, but if it happens, then the cure to that possible obligation of due process violation is to allow the applicant to absolutely address those and that is the sole, the critical piece here. And that is that we do have evidence that the properties identified last time are actually either outside of the 500' or within the 50% waiver that this board is absolutely allowed to grant and so that is simply the basis of our pitch and that is what we have evidence that we would like very much to submit to you. Thank you.

Mr. Hamilton stated thank you. Any questions of the chair on what was just testified?

Mr. Trott stated Mr. Chairman, on our non-conforming lots we have a general rule that states that if they were in that use during the transition of the ordinance it becomes and maintains lawful, correct?

Mr. Hamilton stated correct, that's right. So, the existence of a residential lot or residential use within a district, if it's a non-conforming lot of record, is a permitted use, is a legal use. I'm just going to ask the CEO to talk about that.

Ms. Bishop asked, what part specifically?

Mr. Hamilton responded, the fact that a non-conforming lot of record can be within any zone.

Ms. Bishop answered, yes, that's correct, uses ...

Mr. Hamilton stated these residential lots that happen to be within the commercial/industrial zone are non-conforming, some of them are non-conforming lots of record, and they are permitted in the ordinance.

Ms. Bishop stated yes.

Mr. Hamilton stated so my sense is that, my own feeling is that we have not misinterpreted the ordinance. I feel that we have interpreted the ordinance correctly in order to protect our residences that are within 500' of this particular use that has been defined in 33-190. Any other discussion?

Ms. Adams stated to go along with that, when you look at the table of land uses, you see single-family dwelling and two-family dwellings. It says "no they are not allowed" but there's a note to that and it references 45-192 b that may permit accessory uses and structures for existing residential use in the C/I district. And I think that supports that, that they are protected there. Also, it says that you can have a home office in that district. It goes through the CEO although home businesses are not allowed. I don't know why it would say that they wouldn't be allowed. If we wouldn't allow it, they wouldn't be there and so, I'm just bringing that up.

Mr. Hamilton stated thank you, that's a great clarification. Any other discussion on our motion?

Mr. Trott stated just for note 45-191 that I was speaking of, 45-191 ...

Mr. Hamilton stated read again, *use of land building or structure lawful at the time of adoption or subsequent amendment of this chapter may continue although such use does not conform to the provisions of this chapter.*

Mr. Hamilton stated further discussion on the motion to deny the board of appeals or to not view this reconsideration, if not, then ...

Mr. Marshall stated Mr. Chairman, could you have the motion restated please.

Mr. Rankie stated could we ask our secretary to read the motion, if you can find it there.

Secretary — where were we?

Attorney Rachin stated just a point of clarification as the motion is trying to be sought. I heard the board addressing the concerns around the ordinance interpretation, but that's second prong where there is a mistake of fact. I did not hear any discussion around that, so our argument was, even if you find that the ordinance allows this board to consider those residential properties, that our second argument is that those residential properties are very much either outside of the 500' or they are absolutely below that 50% or 250' limit where the waiver that is absolutely expressly grantable under your ordinance. I haven't heard discussion around that and would respectfully request that you entertain that as well. Thank you.

Ms. Lemire stated okay I would say that in light of what you just said, the setback is not 250' because it's a residential property. In a sensitive, use its 500'. So, here's a residential property in the suburban district...then that disqualifies. It's not...we did not make a mistake on that.

Mr. Hamilton stated I think part of the problem that I saw when it was brought to our attention, we have GIS mapping that made this very clear. By the way, it's the responsibility of the appellant to do that homework. It's not our responsibility to come up with new stuff, we just happened to do our homework, that's all. And we found this GIS mapping showed that there were residences within the 500' setback, the 500'. I guess my issue was that there are so many that we can, I think the BOA is designed and our duties are designed to provide the minimum relief to an appellant to satisfy the request, not the maximum. You are asking for the maximum. You are asking for us to let's just say ignore these 7 or 8 or 9 whatever residences there are and let's waive each one of them or let's give a variance to each one of them. I don't see that as happening.

Mr. Rankie stated Mr. Chairman, I also take issue at being told that we can't do independent research when we are presented with something that we know is not true. I have been quiet on that because I don't really think that it's relevant to what we are talking about but after this being said I think it's necessary that we say that. I think we have our motion?

Deborah Parent, Secretary stated what I have in here is that request for reconsideration, we had a move to deny

Mr. Hamilton stated I'm sure we can find it during the streaming video.

Mr. Rankie stated is that enough for John?

Mr. Hamilton, no I think it should be clarified.

Mr. Hamilton stated the motion was to have the board to make its own motion, since we have the 45-day period, just to be on record that we are or are not interested in opening this for reconsideration.

Mr. Rankie stated I think, Cabot you made the motion, right

Mr. Cabot stated I did.

Mr. Hamilton stated it's really not based, well it's based on the three things that I read...

Ms. Lemire stated factual error and misinterpretation of the ordinance are a few things that Cabot included in the motion.

Mr. Hamilton stated the motion would have to be determined whether they felt there was sufficient evidence or misinterpretation or fraud or something else that would require us to reconsider.

Ms. Lemire stated I don't believe that there are any significant factual errors in our decision and I don't believe that we misinterpreted the ordinance. Certainly part of the merits of the argument were not based on fully flushed out information.

Mr. Hamilton asked, any other considerations, discussion before taking a vote?

Attorney Rachin stated Mr. Chairman, just a point of order. It's difficult for this board to make a determination whether or not there has been factual error, if we are not allowed to present the evidence with respect to that factual error.

Mr. Hamilton stated I think you have presented the evidence, you've presented your argument

Attorney Rachin stated we haven't

Mr. Hamilton stated and we have to understand whether that argument is relevant to what we...to the issues we are determining.

Attorney Rachin stated so I'm referencing the decision that this board made. I think it was unanimous, and I'm reading from item #16. It was testified that there are 6 residences less than 500' from the applicant's proposed business. I do apologize I was not here at the original hearing, but my understanding is that a board member took some measurements, went to the website, did some GIS, something like that, to make that determination of the distance.

Mr. Hamilton stated correct.

Attorney Rachin stated and what we are here to tell you is that, that was not something that we requested. We didn't ask for a variance on that and I understand that boards are diligent, they do their homework and they want to make.

Mr. Hamilton stated it would make no sense for us to approve a request if we realize that there are other things that were wrong in that request.

Attorney Rachin stated and I hear that. But what I'm saying is what due process does require under case law is that, if there is evidence that comes up at hearing that there is no opportunity at that point to rebut, we have evidence that actually, truly refutes that, and we are just asking for an opportunity for you to hear that evidence, simply that.

Mr. Trott stated Mr. Chairman, with a copy of the minutes you will actually see that I'm the one that brought up those six and I'm also the one that said I'm not saying I'm proficient with GIS, but there were at least a couple of them, maybe our CEO could give us a better measurements, but the fact that there are still residents within those and our code allows up to a certain amount of a waiver allows,

Attorney Rachin stated true.

Mr. Trott stated and the fact that when we have to go through this stuff and we see it, I understand your client did not get that information that these were there, but we know the overall ordinance and we have to look at that whole picture not just the one he requested because it's the right thing to do.

Attorney Rachin stated absolutely, and I'm not disputing that. The only point that I'm making is simply is this, is that the measurements that were taken, we have subsequent evidence to show that they maybe were inaccurate.

Mr. Trott stated do you have measurements that I gave you?

Attorney Rachin stated I defer to my client.

Mr. Hamilton stated I'm sorry; we are not opening this for discussion.

Mr. Marshall stated Mr. Chairman if I could interrupt here, it seems that we have denied hearing this case based on timeliness, we have appeared to be hearing this case.

Ms. Lemire stated yes.

Mr. Hamilton stated we are not hearing this case. We are deliberating from the Board such as to whether we want to open this to reconsideration. This is not a public hearing on the facts, this is a hearing for us to determine whether we want to open this up for reconsideration, whether we feel that there was an error or that there was a misunderstanding or misinterpretation and given the attorney's brief, we have to weigh that, I think, I didn't have to allow that, this is a deliberation of the board ...

Ms. Lemire stated right, right.

Mr. Hamilton stated to determine whether we want to open this up again. This has nothing to do with the merits of the case at this point other than the fact that we have to determine, I can understand their point, but our point is do we feel that we made a mistake.

Mr. Rankie stated I don't think, Mr. Chairman, I don't feel we did, but also, I don't think we should lose sight of the fact that simply the post office being where it is, is enough for us to deny, even without the residences being there and we denied it. It's that simple to me.

Mr. Hamilton stated well it wasn't just about the post office.

Mr. Rankie stated no it wasn't.

Mr. Hamilton stated again without getting into the facts of the case.

Mr. Rankie stated no it wasn't, right so can we move the motion?

Mr. Hamilton stated let's move the motion, any other discussion?

All in favor to NOT reconsider this appeal please raise your hand. All opposed? Unanimous 5-0. I'm sorry; you will receive a Notice of Decision within 7 days outlining the reason why your appeal was denied for timeliness.

VOTE:
5-0
Motion Approved

Findings of Fact:

1. The Eliot Board of Appeals decision on the above was rendered by vote of the board on January 16, 2020.
2. The Request for Reconsideration by Drummond Woodsum was hand-delivered to the Town of Eliot on January 31, 2020 and stamped by the Town Clerk's office on that date as received, 14 days after the vote on January 16, 2020.
3. M.R.S.A. 30A, §2691, #3(f) states that all Requests for Reconsideration must be filed within 10 days of the decision that is to be reconsidered.
4. Eliot Code of Ordinances, Sec. 45-50(l) states that same timeliness requirement.
5. Eliot Board of Appeals Bylaws, Section IX states that same timeliness requirement.

Second Public Hearing:

B. Raymond Neufield, Map 003 Lot 004, Map 17/Lot 29, Village District, Limited Residential, Shoreland Zone, requesting a waiver of dimensional standards on property located at 17 Riverside Drive.

Mr. Chairman stated, map was apparently revised since the first time we put Map 17/Lot 29 down. It's now on the map at 003-004. Is that correct?

Ms. Bishop, CEO stated I'm sorry.

Mr. Hamilton stated the designation of the Neufield property was Map 17/Lot 29 initially, and then it was whited out and replaced with Map 003 Lot 004. Which is correct?

Ms. Bishop, CEO stated Map 3/Lot 4 is correct.

Mr. Hamilton stated thank you. The Village District, Limited Residential Shoreland Zone requesting a waiver of dimensional standards on property located at 17 Riverside Drive. Again, going through the procedure, the same 5 members of the board will be voting members. Does anyone have a conflict of interest? No.

Parties to the action are simply the appellant and the Board of Appeals asking for a waiver. The jurisdiction — this is a non-conforming lot of record in the Village District and also in the Shoreland Zone and under our ordinance the only provision that we have to view waivers of nonconforming lots of record. That's 45-194, which is nonconforming lots of record. It allows, *under 45-194 C it allows all setback, yard, residential density, lot coverage, height, use, and other basic requirements shall apply to nonconforming lots. In cases where it is not possible to comply with these and other zoning requirements, the following rules shall apply:*

I'll skip to the second rule where it says, this is 45-194(c)(2): The code enforcement officer is authorized to permit a 25% reduction in frontage, setback and yards requirements only. Any other deviation in frontage, setback or yards requirements to a maximum 50% reduction may be permitted as a waiver after public hearing by the board of appeals. Any further reduction in frontage, setback or yard requirements shall be considered a variance. This section shall not apply to setbacks from the high water mark which is provided in section 45-194. In the shoreline zone the code enforcement officer shall not authorize reductions in frontage, setback or yard requirements. Such reduction can only be granted through the board of appeals.

So, what it's saying from the way I understand it is that we cannot grant a waiver in the shoreland zone. We can only grant a variance. So, your application for a waiver, is the appellant here?

Contractor stated sir, Ray Neufield has fallen sick with influenza. My name is Cyrus. I'm his contractor, and he just very recently came down with it.

Mr. Hamilton stated I'm sorry to hear that. The waiver provision is not allowed in the shoreland zone, which means that you would have to come to the board of appeals as a variance and the only type of variance that we can deal with, at this point, through our ordinance is something called a hardship variance. So, my sense is, and I guess I will need to get advice from the board on this, is that we, as a Board of Appeals, cannot rule on this application because we cannot grant waivers in the shoreland zone. So, the applicant, we will open the public hearing, but we cannot rule on this because, in other words we can't take testimony because we have no authority.

Ms. Lemire stated can we ask questions of the CEO?

Mr. Hamilton stated we certainly can, as part of deliberations yeah. But I'm just saying I can't honestly, the public hearing is open, but I cannot honestly, can't ask for testimony because we have no jurisdiction to hear this. The appellant would need to go back and re-file the application and it's only fair because the criteria is different from the variance as it is a waiver. A waiver is much more relaxed. The hardship variance you will find in our zoning ordinance is very difficult, and we are asked to be very careful about those and the requirements. You have to meet all four requirements. So, I'm going to entertain a motion from the board that we deny this application because we have no jurisdiction.

Mr. Rankie moved, second by Mr. Trott, that the Board of Appeals deny this application because we do not have jurisdiction.

DISCUSSION:

Mr. Marshall stated how far up from the shore does our shoreland zoning go?

Mr. Hamilton stated that's a question for our CEO.

Ms. Lemire stated yes.

Mr. Marshall asked, is it more than the 75' of the setback here?

Ms. Bishop responded 75' is the required setback. The shoreland zoning goes 250' from the high annual tide.

Ms. Lemire asked, from the what?

Ms. Bishop stated high annual tide.

Mr. Marshall stated so the whole property is considered in the shoreland zone?

Ms. Bishop stated, no it's not. Where they want to place the house is outside of the shoreland zone, but there is a portion down by the water that is within the shoreland zone.

But not where the structure is proposed to go. There is a sight plan in your packet and it shows the building envelope up front near the road. I have an aerial that I can show you.

Mr. Marshall stated it shows a 75' setback.

Ms. Bishop stated yes.

Mr. Marshall stated does that take it out of the shoreland zone?

Ms. Bishop stated, no. The property is still within the shoreland zone, but it does satisfy the requirements of the setback within shoreland zone. So, your shoreland zoning is 250' from the high annual tide and there are limitations on what you can do. Mainly tree clearing, cutting, things of that nature. But your structure setbacks are either going to be 75' or 100' depending on what type of water body it's adjacent to. In this case it's a requirement of 75' from high annual tide.

Mr. Hamilton asked, so is my interpretation correct that the applicant really needs to come back? From what your understanding is because this property is within the shoreland zone?

Ms. Bishop stated it's hard. It's hard to say because, when you read that section, 45-194 (2) it says: This section shall not apply to setbacks from the high-water mark which is provided in section 45-195 (c), and that's not the request they are asking for. They are not looking for a reduction from the high-water mark. It further states that: In the shoreland zone the code enforcement officer shall not authorize reductions in frontage, setback or yard requirements. Such reduction can only be granted through the board of appeals and that is ultimately why they applied for the waiver.

Mr. Hamilton said, let me read under section 44-47 shore land zone under the appeals procedure, we basically the powers and duties of the board of appeals shall have the following powers, administrative appeals which does not apply tonight and variances and that's it. No waivers, nothing else. Just variances and administrative appeals in a shoreland zone.

Mr. Rankie stated Mr. Chairman, if I understand what has been presented, if the appellant came back to us with a request for a variance, not a waiver, it would have to be a hardship ...

Mr. Hamilton stated that's correct.

Mr. Rankie asked, and we could consider it in the area not in the 75' setback? Is that an accurate?

Mr. Hamilton stated I don't know. I think we would have to consider it as part of the shoreland zoning ordinance. We can't determine what's in and what's out. If it's in the shoreland zone, whether it's in the village district or a commercial district or a suburban

district, it has an overlay, and that overlay is considered a shoreland zone then we have to apply the shoreland zoning ordinance, which is 44-47, and the appeals in that ordinance only allow variances and administrative appeals, no waivers.

Mr. Rankie stated right, I understand, it's an open-and-closed case. Waivers we have no jurisdiction over, a waiver with this property. My question was, or my statement was, asking, if you agree with it, was, if the appellant goes back home and comes back to our CEO and puts in another request for a variance, hardship variance, then we would have the ability to entertain it, only on the part of the property that they are actually asking us to look at. Is that an accurate statement?

Mr. Hamilton stated I can't answer that question, and if the appellant decides to come back to us with a variance

Mr. Rankie said, well we better figure that out just in case they come back.

Mr. Hamilton stated we will have to figure that out, once the appellant presents that application, there's no sense in us trying to guess.

Mr. Rankie stated okay, so that's something that we need to know, so it's open-and-closed that we have no jurisdiction to look at the waiver?

Mr. Hamilton stated that's my understanding and that's the town attorney's understanding. Again, this is really not opening too much on testimony, but go ahead.

Cyrus asked, my question is that to seek relief from setback and yard requirements between 0-25% the application is a waiver application?

Mr. Chairman stated, but not in the shoreland zone.

Cyrus stated but as I read the application it's, one would make a waiver request in the shoreland zone but the CEO may not decide on it, it's the board of appeals that may decide on it. What I hear your decision saying is that because it's in this overlay zone that there could never be a waiver request in that area?

Mr. Hamilton stated that is correct.

Mr. Rankie stated that's not an application to correct it, Mr. Chairman, that's an ordinance, that's not, the application, is a piece of paper you get. Mr. Chairman is reading from the ordinance, which is what we are governed by.

Mr. Hamilton stated somehow there was a misunderstanding and, honestly, we cannot rule on the waiver request because we are prohibited from doing that in the shoreland zone. So, if the applicant wants to come back and give us an appeal for a variance in the shoreland zone we will address that. It was an unfortunate oversight.

Ms. Lemire said, I'd like to ask the CEO a question? When looking at this sheet that shows the proposed structure ...

Mr. Rankie stated which one?

Ms. Lemire stated the first one, Attachment 1. You show the rear setback and I'm thinking it's the side setback.

Mr. Hamilton stated again, we are not going to debate the merits of the case because we cannot rule on it. So why are we spending time on this? If it comes back next time as a variance, I'm sure it will have the same piece of information.

Mr. Marshall stated well actually, if it's a rear setback or not I recall a case we had where a setback was misallocated and was being called a side or front setback when it was a rear set back, which was a different setback. And it turns out we should not have heard the case because it didn't belong in front of us. It was allowable. And I'm looking at this drawing right now and I really can't tell you where the road is to tell you where, what's the front setback, what's the rear setback or anything.

Mr. Hamilton stated again I have to say, really, I have to say, since we can't review this application that we really shouldn't be getting into the details of what setbacks are where or what they are. We can't rule on it.

Mr. Marshall stated I'm not looking to rule on it, I'm looking to clarify. Does it even need to be here if the front and side setbacks are all considered in the right place. Maybe it fits.

Mr. Hamilton stated well, I'd have to defer to the CEO saying that she mentioned to the applicant that they needed an adjustment, or a variance or a waiver or whatever. And the waiver provision came up and I'm saying that I don't think we can rule on that, and the board has to determine that yet. But from my discussion with the town attorney and my review of the shoreland ordinance and the ordinance regarding lots of record, we have no jurisdiction. Any other discussion?

Ms. Lemire stated I think the application is wrong and I think the map is wrong, that's all I'm going to say, if you prove

Mr. Hamilton stated that will come up if they decide to appeal, if they decide to appeal our decision tonight or appeal if they decide to resubmit and have as a variance.

Mr. Rankie stated hardship variance.

Mr. Hamilton stated hardship variance, we only have one type of variance at this time. Any other discussion? If not, all in favor of the motion, which is to deny, please raise your hand. All those opposed? Motion carries, 5-0. You will receive a Notice of Decision within 7 days, the appellant will, and if he chooses to reapply for the variance ...

VOTE:
5-0
Motion Approved

Findings of Fact:

1. Property is a nonconforming lot of record.
2. Waiver provisions regarding nonconforming lots of record, under section 45-194(c)(2) do not apply when property is in the shoreland zone.
3. Under Shoreland Zone sec 44-47 (Appeals), there are only two types of Appeals that the Board of Appeals can legally review: Variances and Administrative appeals, not waiver from dimensional standards.

5-minute break called at 7:57 PM

Reconvened at 8:04 PM

ITEM 4 – REVIEW AND APPROVE MINUTES

Ms. Lemire moved, second by B. Cabot Trott, to approve the minutes of January 16, 2020, as amended.

VOTE
5-0
Motion approved

ITEM 5 – CONTINUED REVIEW OF PROPOSED WAIVER AMENDMENT

Mr. Hamilton asked, does everybody have a copy of the proposal that sent around, a 3-pager. Says to the Eliot Planning Board?

Ms. Lemire stated very good job putting this together.

Mr. Hamilton said, Thank you, it's pretty much what we discussed. I don't believe anything was added and this is why go through tonight briefly. If it looks good, we will submit to the Planning Board. It has not been submitted, still in review draft process.

Ms. Lemire said, Right. We need to make a motion to move it forward.

Mr. Hamilton said Yeah.

Mr. Rankie said, I think we actually moved it, we gave the Chairman the authority to do that if

Mr. Hamilton said, Right, right.

Mr. Rankie said, if he wished, if he brought it back, he has the authority.

Mr. Hamilton said, Yes, I brought it back just for final review.

Mr. Rankie said, Right because the timeliness. Ms. Lemire, we left that with him.

Mr. Chairman said, No problem. We can make a motion to move it through, if you want, I just thought I wanted to make sure everybody

Mr. Rankie said, I just wanted to make sure my memory was still working.

Mr. Trott stated, so it doesn't take what we recommend and change it all around to,

Mr. Hamilton said, I hope not.

Mr. Trott said, I do like the recommendations, especially define the definitions.

Mr. Hamilton said, Yup, yup!

Mr. Rankie said, In your presentation it's there, but this is the other thought I had reading it Mr. Chairman. You clearly state that this keeps the CEO from granting anything ...

Mr. Hamilton said, Well, granting variances, yeah.

Mr. Rankie said, It doesn't. To me it doesn't jump in your presentation. There's nothing that jumps out to me. I understand that, but I think I'm more involved than the average citizen

Mr. Hamilton said, Okay ...

Mr. Rankie said, But it's nothing that jumps out that really tells the general public that if the CEO were to grant the 25% they have absolutely no recourse. It's done, and it's done in her office and that's it.

Ms. Lemire said, That could be a piece that could be added to this.

Mr. Hamilton said, Yes.

Mr. Rankie said, The code officer wants to reply.

Ms. Bishop stated I just want to mention that if it was a permit issue based on the 25% reduction, there is an appeal process of 30 days after a permit is issued, so people do have ...

Mr. Rankie said, But they wouldn't even know about it. But where if there's a hearing, that's my point ...

Ms. Lemire said, Then the abutters are notified and ...

Ms. Bishop said, yes, they have to ...

Mr. Rankie said, And I, I'll just bring this up. Do we want to make that, I mean it's here, but you have to know what you're reading and I just asked that question, Mr. Chairman. Do we want to make...

Mr. Hamilton said, Yeah. I'm not sure that's necessary, because basically what's overriding this whole thing is that the state does not allow CEO's to grant variances ...

Mr. Rankie said, Okay.

Mr. Hamilton said, And ...

Ms. Lemire said, Waivers, no waivers of any kind ...

Mr. Hamilton said, Right.

Ms. Lemire said, Or it was ...

Mr. Hamilton said, Well there is no such thing as a waiver, according to the state ...

Ms. Lemire said, Well ... passively written.

Mr. Rankie said, I'm okay with it. I just brought that out in the event that it was ...

Mr. Hamilton said, It's a good piece of information. I was just thinking

Mr. Rankie said, Certainly at a public hearing it's something that will be good to be brought forward ...

Mr. Hamilton said, Yes, it would be good to bring it up then ...

Ms. Lemire said, Yes, I agree. I think it's good as it's written.

Mr. Rankie moved, second by Ms. Lemire, that the Board of Appeals move this forward to the Planning Board.

DISCUSSION:

Mr. Rankie said, Wonderful job ...

Mr. Hamilton said, Thank you.

Mr. Rankie said, The discussion.

Ms. Lemire said, We are only focusing on the practical difficulty at this point because we do not have time for anything else.

Mr. Hamilton said, Well, I did include at the end the disability variance ...

Mr. Rankie said, Yes you did.

Mr. Hamilton said, Under title 3A section 43

Ms. Lemire said, oh good yes, you did. Because I think that's a no-brainer...

Mr. Rankie said, But it's important to get it done and not have to go back to touch it again ...

Mr. Hamilton said, Exactly, yes ...

Mr. Rankie said, So, you put the extra effort into doing that.

Mr. Hamilton said, That's there, as well, and if everybody agrees with the extra being there...

Ms. Lemire said, No, I think we should have it. I didn't realize that we didn't, to be perfectly honest with you.

Discussion Ended:

VOTE
5-0
Motion approved

That's all I've got for tonight. Does anyone have anything else?

ITEM 6 – OTHER BUSINESS

Ms. Lemire said, So, my first question is why are we having this meeting tonight?

Mr. Hamilton said, Well, that's a good question. Here's what happened. When these came to the front of me

Mr. Rankie said, Can I clarify?

Mr. Hamilton said, Hold on a second ...

Mr. Rankie said, Why are we having a meeting that's not on our normal schedule? Is that your question?

Ms. Lemire said, Yes. Why are we having a meeting tonight.

Mr. Hamilton said, oh, I'm sorry ...

Ms. Lemire said, You were starting to ask/answer.

Mr. Hamilton said, Here's what happened. We missed the deadline, because this ...

Ms. Lemire said, Who missed the deadline?

Mr. Hamilton said, Let me finish. I got notices about both the request for reconsideration and this appeal notice for a waiver in the shoreland zone. I had like one day to decide whether to put it on the agenda or to question it, so I made some inquiries into when we are able to meet the post-date requirements. They came in late so I said that really, that, I determined that because the 10-day limit on the first issue, that it was something that we had no jurisdiction over so, I mentioned that, but I said that I'm a little out of my league here and I'd like a little help from the town attorney. The town attorney wrote back and said you are right that there is no jurisdiction, but you need to bring this in front of the board and unfortunately, at that point, when he got back to me, if we held our meeting on the normal Thursday we would have been out of compliance in terms of what needed to be done as far as posting. We didn't have the ability to post. There wasn't enough time. However, if we waited until the next Thursday of next month we would have been out of the 45-day time limit. So, I said we need to make this decision before March 1st because that's the 45-day time limit from our initial decision on Jan 16. So, the only time, I checked with Wendy on when this room was going to be available, and it wouldn't be available on Thursday because there was a selectman meeting ...

Ms. Lemire said, Select board meeting tomorrow night ...

Mr. Hamilton said, So, this night was available, so I said let's do this night. So that's how this came about.

Ms. Lemire said, So the other meeting room wasn't available?

Mr. Hamilton said, I don't know, I thought this would be, given the attendance ...

Mr. Rankie said, What was your question, Ms. Lemire?

Mr. Hamilton said, Why are we having this meeting on Wednesday?

Mr. Rankie said, I want to input but I can't hear what you just said

Ms. Lemire said, Oh, I was asking about the ...

Mr. Hamilton said, Other room ...

Ms. Lemire said, Other room

Mr. Rankie said, Okay.

Mr. Hamilton said, I requested ...

Ms. Lemire said, If that was available on Thursday...

Mr. Rankie said, This was on my list to talk about, as well, so I'd like some input.

Mr. Hamilton said I requested this room, thinking there might be some audience.

Ms. Lemire said, Okay. So, my comment to you, and I've said it before, I have a prior commitment on Wednesday nights, and having Wednesday night meetings for the board of appeals is not a good thing for me ...

Mr. Hamilton said, Okay. I had no choice ...

Mr. Rankie said, So, if I could follow up on that as well, Ms. Lemire...

Ms. Lemire said, Yes.

Mr. Rankie said, And I'm not speaking for anyone but Charlie Rankie, I build my schedule ...

Ms. Lemire said, Yep ...

Mr. Rankie said, Months ahead ...

Ms. Lemire said yep ...

Mr. Rankie said, And I build my life around this commitment I've made to the town of Eliot, to be available on the third Thursday of every month ...

Ms. Lemire said yep.

Mr. Rankie said, If at all possible. So, that said, and I don't know what others do, but that's what I do, so would another way to have accommodated it without going past have been to have met on the third Thursday and continued ...

Ms. Lemire said, Yes, you could do that.

Mr. Hamilton said, There wasn't enough posting requirement.

Mr. Rankie said, But you could still continue because of lack of posting.

Mr. Hamilton said, No you can't do that.

Ms. Lemire said, No, you could have posted it...

Mr. Hamilton said, It needed a 10-day requirement. Abutters need to be notified, that whole, that whole process

Ms. Lemire said, So, in other words, they came in late.

Mr. Hamilton said, Well, it was in front of my desk. I had one day to decide whether to put it on the agenda or not and I thought that there was a problem with it, and I thought maybe it didn't need to go to the board. Maybe it just needed to be, that our town attorney would write to the applicant and say I'm sorry you didn't meet the time limit standard and therefore you can not appear to the BOA. However, the town attorney corrected me and said that's not how it works. You have to bring it to the board and the board needs to determine the timeliness issue and any other issue ...

Ms. Lemire said, Right.

Mr. Hamilton said, And the same with the idea of the shoreland zone that we don't have jurisdiction with the waiver, the same thing happened. So, there was two of these, these two odd-ball requests that came in within a day, the same day, and we couldn't meet the 10-day posting.

Mr. Rankie said, So tell us, I don't understand why, and this is discussion

Mr. Hamilton said, Yeah, yeah.

Mr. Rankie said, I don't understand why, if we accept the case and we know we can't make our scheduled meeting date and our scheduled assigned position in our time slot, we couldn't have told the appellants that, okay yeah, we got it, we're going to meet as a formality, or no we aren't going to meet until next month because that's our scheduled

time but, as a formality, we will meet at our scheduled meeting day, which would have been this past Thursday and we will continue it.

Mr. Hamilton said, We probably could have done that, but ...

Ms. Lemire said, We can continue ...

Mr. Hamilton said, That wasn't what was recommended.

Mr. Rankie said, Okay as a discussion, I think that's part of our toolbox and we could use that on a future case ...

Mr. Hamilton said, Well ...

Mr. Rankie said, My objective here is to make sure that you have a quorum and we provide to the citizens of Eliot everything we possibly can.

Mr. Hamilton said, My sense was that we did not have. That would not have met the 45-day limit.

Ms. Lemire said, Well, and that's the...

Mr. Hamilton said, Even if we continue, we have to make a decision within the 45 days and we couldn't make a decision on Thursday. We couldn't make that decision, so we had to make it with the posting requirement for this Wednesday instead of last Thursday. That was only time available that was available here. You have to understand we have to juggle schedules in the town hall as well as our own schedule.

Mr. Rankie said, Hey that's ...

Ms. Lemire said, I know ...

Mr. Hamilton said, You know ... I know. Anyhow, if I put anybody out on this thing, I apologize. I saw that as the only thing to do in order to meet all the requirements, the posting requirements, the requirements of the 45-day decision on the reconsideration motion we had this meeting tonight.

Ms. Lemire said, And we really, rarely get reconsiderations and I get that, every once in a while, the schedule can get monkeyed around with. But this is twice in a row that it's happened and that's...we also had the ordinance discussion on a Wednesday night.

Mr. Rankie said, I'm sure that we are giving you that input that you've got it take with you.

Mr. Hamilton said, Got it.

Mr. Trott said, It worked out better for me.

Mr. Rankie said, Couple little housekeeping things for our CEO. If you are for efficiency in your doing the board of appeal public hearing notice and you double up two on there ...

Ms. Bishop said, Yep.

Mr. Rankie said, The first line after you have the block where you say “if you are interested in the specific details of the application”. I think you should probably say “of an application” when you have two there, because it’s just a little thing, there are two applications and you are doing singular. The other thing, and I don’t know this for sure because I didn’t keep watching, but we need to be very careful about the 7 day, the agenda being out 7 days prior to a meeting ...

Ms. Bishop said, Okay.

Mr. Rankie said, I don’t know if we hit that or not. I think we might have.

Mr. Hamilton said, I think we did.

Ms. Lemire said, Oh, the notice of decision.

Mr. Rankie said, No, for this meeting ...

Mr. Hamilton said, The meeting agenda.

Ms. Lemire said, Oh, oh.

Mr. Rankie said, It was close if we made it.

Ms. Lemire said, Everything was close.

Mr. Rankie said, Just throwing that out.

Ms. Bishop said, Thank you.

Mr. Hamilton said, This was a little bit of an unusual situation.

Ms. Lemire said, This was an unusual situation!

Mr. Rankie said, But if this was easy anyone could do it, so I’m finished. Thank you, Mr. Chairman.

Ms. Adams said, Can I ask you if the applicant has a certain timeline, too...

Ms. Lemire said, Yes.

Ms. Adams said, To get in all of the documentation? Did that come in late, also, or was that on time?

Mr. Hamilton said, It fit in within the schedule, but it was a like a hairline. It was

Ms. Lemire said, Yes.

Mr. Hamilton said, A hairline thing. We need to change that ...eventually.

Ms. Adams said, We don't have enough time in between the application given.

Mr. Hamilton said, We need to have more time. Hopefully, after we get this amendment through we can work on something else, work on some other housekeeping stuff. I definitely think we need to rewrite the application for both the variance and the waiver.

Mr. Rankie said, Well, if we get the waiver officially approved then we will get the whole package, which we have been looking at. With the other portion is the planning board taking a look at the marijuana stuff.

Mr. Hamilton said, I believe they are. I believe they are addressing some of those issues and I think it's going to be on the ballot next year.

Mr. Rankie said, Can you add to that? (to MS. BISHOP) Are they looking at giving us maybe a little relief with some direction.

Mr. Trott said, Marijuana steps

Mr. Hamilton said, No. There are a couple ordinance amendment provisions that are being put on the ballot.

Mr. Rankie said, On this next election?

Mr. Hamilton said, Huh?

Mr. Rankie said, On the next election?

Ms. Lemire said, Yes.

Mr. Hamilton said, Yeah, that relate to the issue of street. You know, the road, the street; - 33-189 - they are going to try and change. I think that's the recommendation, there you go.

Ms. Lemire said, Yes.

Ms. Adams said, Have any of you ever looked at the; ... I went and googled the ordinances to see the term residential property?

Mr. Trott said, There isn't...

Ms. Lemire said, There isn't.

Ms. Adams said, But it's only used in the marijuana pieces ...

Mr. Hamilton said, Right.

Ms. Adams said, It's residential use or residential other things...

Ms. Lemire said, well, It's...

Ms. Adams said, But I wonder if that becomes confusing

Ms. Lemire said, Oh.

Ms. Adams said, Because you can have residential property in the commercial/industrial zone or you can have it anywhere, because there are provisions. So, what if maybe ...

Mr. Trott said, We did have someone testify that was on that committee that stated the fact that it was purposely put out as residential properties.

Ms. Lemire said, Right. We don't have residential zones in this town. You can have residences anywhere...

Ms. Adams said, Right, right.

Ms. Lemire said, We don't have zones. Their whole argument was based on misinformation, but the bottom line was it's a sensitive use.

Mr. Trott said, Yes.

Ms. Adams said, Yeah, yeah.

Mr. Trott said, There's still a...

Mr. Rankie said, Sensitive use, i.e. marijuana.

Mr. Hamilton said, There is still a lot of cloudy stuff in our ordinance that will need to be addressed, eventually; that we will come across it.

Mr. Trott said, There is definitely a learning curve. Ten years from now none of this will ever be an issue. It will all get ironed out.

Mr. Hamilton said, It's a fluid document. It's consistently changing, depending on who's in town 10 years from now.

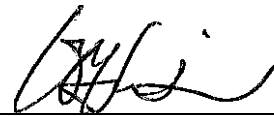
Mr. Rankie said, You certainly did a good job of leading us tonight.

There was no further discussion.

ITEM 7 – ADJOURN

Mr. Trott moved, Mr. Marshall second, to adjourn the meeting.

It was unanimously approved to adjourn at 8:31 PM.



Bill Hamilton, Chair

Date approved: _8/27/2020_

Respectfully submitted,

Deborah Parent, Recording Secretary