

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

TYPE OF MEETING: IN PERSON WITH REMOTE OPTION
PLACE: TOWN HALL/ZOOM

DATE: Tuesday Dec. 5, 2023
TIME: 6:00 P.M.

PLEASE NOTE: IT IS THE POLICY OF THE PLANNING BOARD THAT THE APPLICANT OR AN AGENT OF THE APPLICANT MUST BE PRESENT IN ORDER FOR REVIEW OF THE APPLICATION TO TAKE PLACE.

1. **ROLL CALL**
 - a) Quorum, Alternate Members, Conflicts of Interest
2. **PLEDGE OF ALLEGIANCE**
3. **MOMENT OF SILENCE**
4. **10-MINUTE PUBLIC INPUT SESSION**
5. **PUBLIC HEARING**
 - a) 293 River Road (Map 18, Lot 12), PID# 018-012-000, PB23-19: Shoreland Zoning Permit Application – Residential Pier, Gangway, Floats, and Stairway
6. **NEW BUSINESS**
 - a) 419 River Road (Map 25, Lot 7), PID# 025-007-000, PB23-11: Shoreland Zoning Permit Application – Building Expansion and Retaining Wall
7. **OLD BUSINESS**
 - a) 76 Cedar Road (Map 71, Lot 25), PID# 071-025-000: PB23-16: Residential Subdivision (5 lots) – sketch plan review
8. **REVIEW AND APPROVE MINUTES**
 - a) Minutes – March 7, 2023
9. **OTHER BUSINESS / CORRESPONDENCE**
10. a) Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town Planner, Board Member
- SET AGENDA AND DATE FOR NEXT MEETING**
 - a) December 12, 2023
11. **ADJOURN**

NOTE: All Planning Board Agenda Materials are available on the Planning Board/Planning Department webpages for viewing.

To view a live remote meeting: (Instructions can also be found on the Planning Board webpage)

- a) Go to www.eliotme.org
- b) Click on "Meeting Videos" – Located in the second column, on the left-hand side of the screen.
- c) Click on the meeting under "Live Events" – The broadcasting of the meeting will start at 6:00pm (Please note: streaming a remote meeting can be delayed up to a minute)

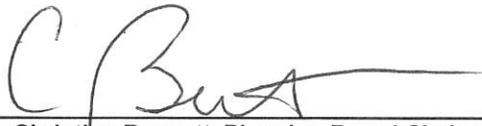
Instructions to join remote meeting:

To participate please call into meeting 5 minutes in advance of meeting start time. Please note that Zoom does state that for some carriers this can be a toll call. You can verify by contacting your carrier.

- a) Please call **1-646-558-8656**
 1. When prompted enter meeting number ID: **835 2298 4929**
 2. When prompted to enter Attendee ID
 3. When prompted enter meeting password: **666239**

Members of the Public calling in, will be first automatically be placed in a virtual waiting room until admitted by one of the members of the Planning Board. Members of the public will be unmuted one at a time to allow for input. Please remember to state your name and address for the record.

- b) Press *9 to raise your virtual hand to speak



Christine Bennett, Planning Board Chair



TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board
 From: Jeff Brubaker, AICP, Town Planner
 Cc: Kenneth A. Wood, P.E., Applicant’s Representative
 Shelly Bishop, Code Enforcement Officer
 Kim Tackett, Land Use Administrative Assistant
 Date: October 19, 2023 (report date)
 October 24, 2023 (meeting date)
 Re: PB23-19: 293 River Rd. (Map 18, Lot 12): Shoreland Zoning Permit Application – Residential Pier, Gangway, Floats, and Stairway – **Public Hearing**

Application Details/Checklist	
✓ Address:	293 River Rd.
✓ Map/Lot:	18/12
✓ PB Case#:	23-19
✓ Zoning:	Suburban
✓ Shoreland Zoning:	Resource Protection, Limited Residential
✓ Owner Name:	293 River Road, LLC
✓ Applicant/Agent Name:	239 River Road, LLC Agent: Attar Engineering, Inc.
✓ Application Received by Staff:	August 3, 2023
✓ Application Fee Paid and Date:	\$225 (\$50 – shoreland pier; \$175 – public hearing) August 3, 2023
Application Sent to Staff Reviewers:	Not yet sent
✓ Application Heard by PB	October 24, 2023
✓ Found Complete by PB	October 24, 2023
Site Walk	None
Site Walk Notice Publication	N/A
Public Hearing	December 5, 2023 (scheduled)
✓ Public Hearing Publication	November 17, 2023 (Weekly Sentinel)
✓ Reason for PB Review:	Shoreland, Permanent Residential Pier (SPR use)

Overview

Applicant is seeking review and approval of a proposed residential pier system at 293 River Rd. (Map 18, Lot 12), which would consist of a permanent pier, seasonal gangway, seasonal main float, and seasonal landing float. Existing railroad-tie stairs to the water would be removed and replaced with a new 4-ft.-wide granite staircase with railings and landing.

The parcel is located on River Rd. as it approaches the river, just southeast of Newson Ln., a private right-of-way. Tax records show the parcel is 5.25 acres with an existing residential camp, garage, and shed. The quitclaim deed (in packet) describes the existing buildings as being “a summer cottage, a 2 car garage, and a studio apartment”. The application includes a land division plan showing a lot split

PB23-19: 293 River Rd. (Map 18, Lot 12): Shoreland Zoning Permit Application – Residential Pier, Gangway, Floats, and Stairway – **Public Hearing**

separating out a 2.1-acre parcel (labeled Lot #2). The remaining land, labeled Lot #1 (listed as 4 +/- acres) has the camp and accessory structures, which are proposed to be removed, and would have the pier.

The pier will be on 10"x10" pilings, with 20 verticle piles and 8 batter piles. The site plan and profile shows the floats sitting on the riverbed at average low tide.

Dimensions of proposed pier system components

- Access stairway to beach: 4' x 46'
- Permanent fixed pier: 6' x 100'
- Seasonal gangway: 3' x 40'
- Seasonal main float: 10' x 24'
- Seasonal landing float (perpendicular): 8' x 24'

Uses

Permanent residential piers and other structures and uses extending over or below the normal high-water line or within a wetland are SPR uses in the shoreland zone.

Type of review needed

Public hearing – take any public hearing comments/correspondence before deliberation and consideration of an overall action on the application – see recommendation and motion templates below.

Status of other agency reviews

- MaineDEP NRPA permits L-30237-4P-A-N and L-30237-TW-B-N – coastal wetland alteration, significant wildlife habitat, water quality certification – **approved 7/6/23, in previous packet**
- US Army Corps General Permit Self-Verification Form (unsigned) and email from applicant to US Army Corps clarifying general permit conditions – **in previous packet**

Section 44-35(c) review

Section 44-35(c) has standards for piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line of a water body or within a wetland. The following table reviews the application under this section. Paragraph numbers under 44-35(c) are in parentheses. For brevity, some standards are summarized.

44-35(c) para. #	Summary of paragraph	Evaluation of application
(1)	No more than one pier/dock/wharf/similar structure per lot given the amount of shoreline frontage (150 ft. for the Suburban district)	Met. Only 1 pier structure proposed. Shoreline frontage after lot split is >450 ft.

PB23-19: 293 River Rd. (Map 18, Lot 12): Shoreland Zoning Permit Application – Residential Pier, Gangway, Floats, and Stairway – **Public Hearing**

(2)	Developed on appropriate soils so as to control erosion	Met. Ref. NRPA approval, Finding #3.
(3)	Location shall not interfere with beach areas	Met.
(4)	Minimize adverse effects on fisheries	No (or minimal) adverse effects are apparent. Ref. NRPA approval, finding #4: “The Department finds that the activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.”
(5)	N/A – pertains to nontidal waters	N/A
(6)	No new structure on/over/abutting a pier/wharf/dock/etc. unless it requires direct access to the water	Met. No such structure proposed.
(7)	N/A – pertains to nontidal waters	N/A
(8)	No existing structure on/over/abutting a pier/wharf/dock/etc. may be converted to a residential dwelling unit	N/A
(9)	Structures built on on/over/abutting a pier/wharf/dock/etc. may not exceed 20 ft. in height above pier/wharf/dock/etc.	N/A
(10a)	Residential piers shall not extend beyond the mean low water mark and are limited to a maximum width of 6 ft.	Met. Discussed on October 24 and applicant has revised the plans o meet this standard.
(10b)	Pier (+ temporary float) length restricted to 200 ft. (measured from NHWL), or a length that will provide 6 ft. of water depth for outermost float at mean low water (MLW), whichever is shorter; shall not extend more than halfway to mean low water deep channel centerline	Appears to be met. Total length is 150 ft. to out to outer edge of main float and less than 200 ft. along total longitudinal length along pier, gangway, main float, and landing float.
(10c)	N/A – pertains to LC and GD districts	N/A
(11)	No structure (including temporary ramps/floats and pilings) shall extend more than halfway to the deep channel centerline at mean low water	Appears to be met.
(12)	25 ft. setbacks from riparian lines for neighboring properties (with lesser setback allowed with mutual agreement with neighbor)	Visually appears to be met. Riparian and setback lines are not shown on the plans but a visual scan makes clear the 25 ft. setback would be met.
(13)	Temporary/seasonal floats which sit on the bottom at low tide must be built per DEP guidelines to minimize harm to marsh grass/marine life living in the mud	Appears to be met. Float will sit at the bottom at low tide. Skids and minimal impacts noted in DEP approved permit. See further discussion below.
(14)	Required reflectors on piers and floats: 3+ in. diameter, not more than 12 in. from each corner. At least 1 per 20 ft. on each side of piers >40 ft.	Met.

Stairways

The stairway is proposed to be located on a bluff indicated as highly unstable by the Maine Geological Survey (<https://www.maine.gov/dacf/mgs/pubs/digital/bluffs.htm>).

44-35(b)(6) check for stairways to access the shoreline in areas of steep slopes or unstable soils

44-35(b)(6) standard	Evaluation of application
Max. 4 ft. in width	Met. Stairway proposed to be 4 ft. wide.
Structure does not extend below or over the normal high-water line, unless permitted by DEP	Met. Stairway is not shown on the plans as extending below the highest annual tide (HAT) line and in any case has DEP approval.
Applicant demonstrates that no reasonable access alternative exists on the property	Met. See NRPA approval Finding #6.

Shoreline vegetation

Per NRPA approval Finding #3, “No tree or other vegetation removal is proposed for the construction of the pier system.”

Recommendation

Approve with conditions and shoreland findings – see motion templates below

Approval with shoreland zoning findings and conditions (recommended)

Motion to approve the Shoreland Zoning Permit Application for PB23-19 for a Residential Pier, Gangway, Floats, and Stairway at 293 River Rd., with the following findings of fact (in addition to other applicable findings of fact to be included in the Notice of Decision):

1. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and Shoreland Zoning Permit Application have been or will be met.
2. Based on the information presented by the applicant and in accordance with Sec. 44-44, the Planning Board finds that the proposed use:
 - a. Will maintain safe and healthful conditions;
 - b. Will not result in water pollution, erosion, or sedimentation to surface waters;
 - c. Will adequately provide for the disposal of all wastewater;
 - d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat;
 - e. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
 - f. Will protect archaeological and historic resources as designated in the comprehensive plan;
 - g. Will avoid problems associated with floodplain development and use;
 - h. Is in conformance with the provisions of section 44-35, land use standards.

The approval includes the following conditions:

1. [Standard conditions]

PB23-19: 293 River Rd. (Map 18, Lot 12): Shoreland Zoning Permit Application – Residential Pier, Gangway, Floats, and Stairway – **Public Hearing**

2. No later than 20 days after completion of the development, the applicant shall provide to the Code Enforcement Officer postconstruction photographs of the shoreline vegetation and developed site.
3. _____[other conditions, if any]

Denial

Motion to deny the Shoreland Zoning Permit Application for PB23-19, for the following reasons:

1. _____
2. _____
3. _____ [etc.]

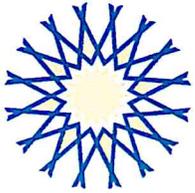
Continuance

Motion to continue PB23-19 to the December 12, 2023, meeting.

* * *

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner



ATTAR

ENGINEERING, INC

CIVIL • STRUCTURAL • MARINE

Mr. Jeffery Brubaker, AICP, Town Planner
Town of Eliot, Maine
1333 State Road
Eliot, Maine 03903

October 27, 2023
Project No. C306-22

**RE: Site Plan Review and Shoreland Zone Permit Applications
Residential Pier (Tax Map 18, Lot 12)
293 River Road, Eliot, Maine**

Dear Mr. Brubaker:

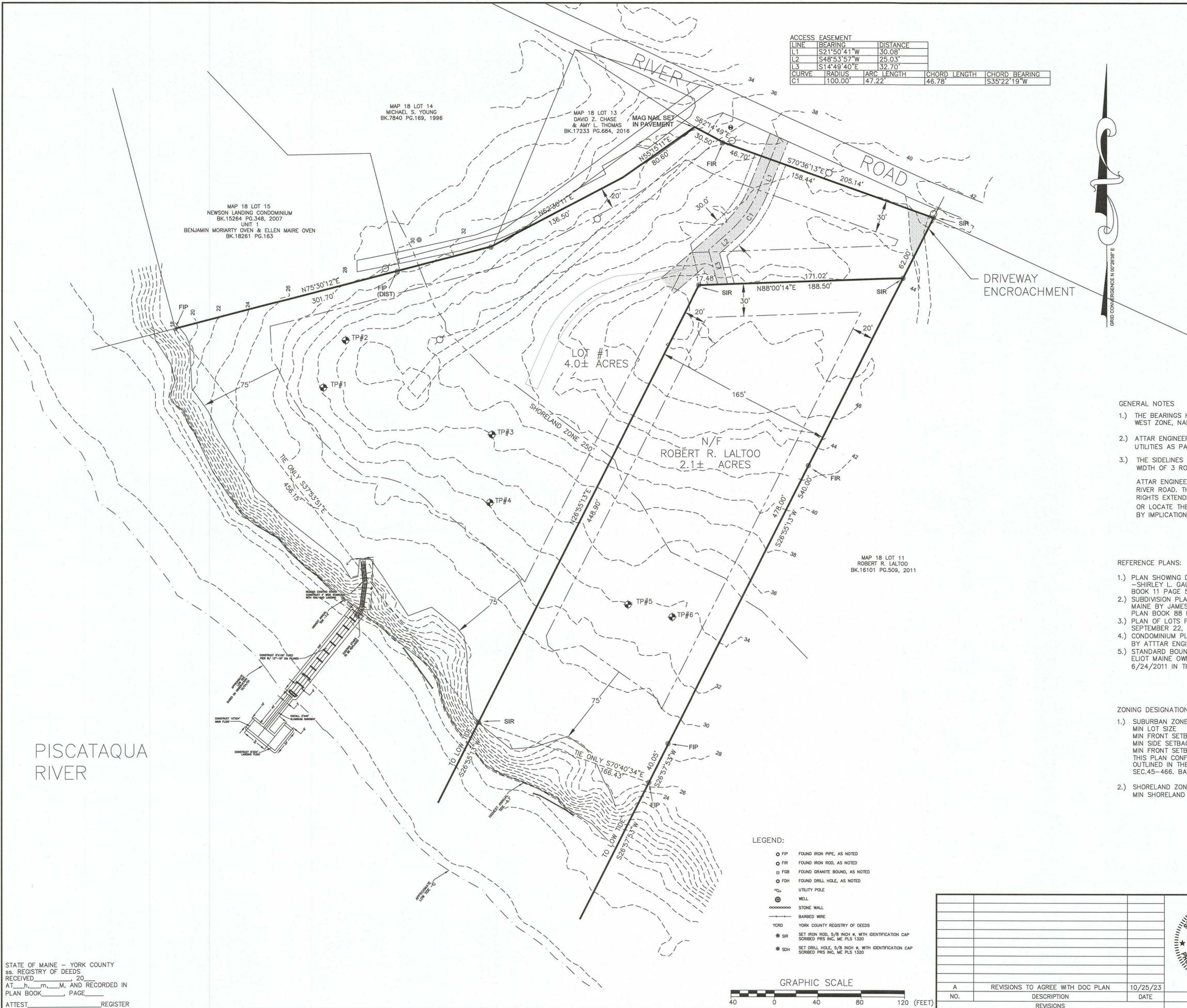
Thank you and the Board for meeting with us last Tuesday. I have enclosed revised plans which were also discussed at that meeting.

Revisions include identifying the MLW line on the plan as determined from actual field measurements taken at the low tide (+0.83') of October 24, 2023. The Dock plan has also been updated to include reflectors on the dock and floats and the Division Plan reflects all buildings which have been removed.

We look forward to meeting with the Board on December 5, 2023 to further discuss this project. Please contact me for any additional information or clarifications required.

Sincerely;

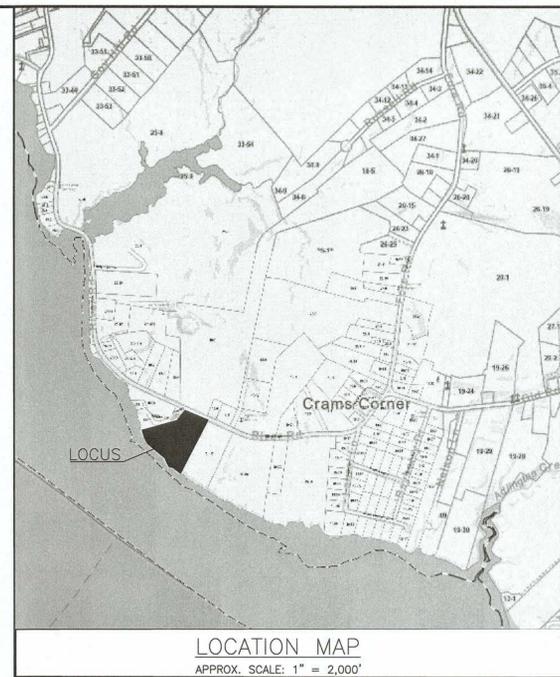
Kenneth A. Wood, P.E.
President



ACCESS EASEMENT

LINE	BEARING	DISTANCE
L1	S21°50'41"W	30.08'
L2	S48°53'57"W	25.03'
L3	S14°49'40"E	32.70'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	100.00'	47.22'	46.78'	S35°22'19"W



GENERAL NOTES

- THE BEARINGS HEREON, ARE BASED ON GRID NORTH, MAINE STATE PLANE COORDINATE SYSTEM, WEST ZONE, NAD83 AS DERIVED FROM GPS OBSERVATIONS.
 - ATTAR ENGINEERING HAS NOT IDENTIFIED THE EXISTENCE OR LOCATION OF UNDERGROUND UTILITIES AS PART OF THIS SURVEY.
 - THE SIDELINES OF RIVER ROAD, AS DEPICTED HEREON, ARE BASED ON A STATUTORY WIDTH OF 3 RODS (49.5') AND FOUND MONUMENTATION.
- ATTAR ENGINEERING HAS NOT PERFORMED A RECORD RETRACEMENT SURVEY OF THE SIDELINES OF RIVER ROAD. THE OWNERS OF LAND ADJACENT TO SAID ROAD OR STREET MAY HAVE OWNERSHIP RIGHTS EXTENDING INTO THE ROADS OR STREET. THIS DOCUMENT DOES NOT INTEND TO LIMIT, DENY, OR LOCATE THESE RIGHTS AND DOES NOT NECESSARILY REFLECT THE EXTENT OF TITLE THAT PASSES BY IMPLICATION OR OPERATION OF LAW.

REFERENCE PLANS:

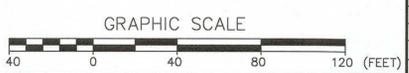
- PLAN SHOWING DIVISION OF LANDS OF GRACE R. PHIPPEN—HELLEN A. WELLINGTON—SHIRLEY L. GALE, ELIOT, ME APRIL 30, 1928 BY LIBBY & DOW ENGINEERS. PLAN BOOK 11 PAGE 5
- SUBDIVISION PLAN PROPERTY OF SYDNEY LANIER SCHOOL, RIVER ROAD, ELIOT, MAINE BY JAMES C. ROGERS, REGISTERED LAND SURVEYOR DECEMBER 1976, PLAN BOOK 88 PAGE 33
- PLAN OF LOTS FOR NEWSON, ORTLEPP, & YOUNG, ELIOT, MAINE, BY FRANK EMERY, SEPTEMBER 22, 1988 PLAN BOOK 168 PAGE 49
- CONDOMINIUM PLOT PLAN, NEWSON LANDING CONDOMINIUM, ELIOT MAINE BY ATTAR ENGINEERING, INC. 5/9/2007 PLAN BOOK 752 PAGE 1.
- STANDARD BOUNDARY SURVEY & SITE PLAN FOR PROPERTY AT 279 RIVER ROAD, ELIOT MAINE OWNED BY ROBERT R. LALTOO, BY EASTERLY SURVEYING, INC. 6/24/2011 IN THE TOWN OF ELIOT FILES.

ZONING DESIGNATION

- SUBURBAN ZONE
 MIN LOT SIZE 2 ACRES
 MIN FRONT SETBACK 30'
 MIN SIDE SETBACK 20'
 MIN FRONT SETBACK 20'
 THIS PLAN CONFORMS WITH THE BACK LOT PROVISIONS OUTLINED IN THE TOWN OF ELIOT CODE OF ORDINANCES SEC.45-466. BACK LOTS
- SHORELAND ZONE OVERLAY
 MIN SHORELAND SETBACK: 75'

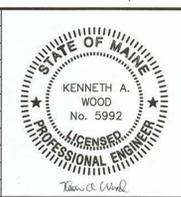
LEGEND:

- FIP FOUND IRON PIPE, AS NOTED
- FIR FOUND IRON ROD, AS NOTED
- FGB FOUND GRANITE BOUND, AS NOTED
- FDH FOUND DRILL HOLE, AS NOTED
- UTY UTILITY POLE
- WEL WELL
- STONE WALL
- BARBED WIRE
- YORD YORK COUNTY REGISTRY OF DEEDS
- SIR SET IRON ROD, 5/8 INCH Ø, WITH IDENTIFICATION CAP SCRIBED PHS INC, ME PLS 1320
- SDH SET DRILL HOLE, 5/8 INCH Ø, WITH IDENTIFICATION CAP SCRIBED PHS INC, ME PLS 1320



STATE OF MAINE — YORK COUNTY
 ss. REGISTRY OF DEEDS
 RECEIVED _____ 20____
 AT _____ M, AND RECORDED IN
 PLAN BOOK _____, PAGE _____
 ATTEST _____ REGISTER

NO.	REVISIONS TO AGREE WITH DOC PLAN	DATE
A		10/25/23
	REVISIONS	



DIVISION OF LAND
 LOCATED AT
 293 RIVER ROAD, ELIOT, YORK COUNTY, MAINE

TAX MAP 18, LOT 12

FOR: 293 RIVER ROAD LLC
 291 HAROLD DOW HIGHWAY
 ELIOT, MAINE, 03903

ATTAR ENGINEERING, INC.
 CIVIL ♦ STRUCTURAL ♦ MARINE ♦ SURVEYING
 1284 STATE ROAD — ELIOT, MAINE 03903
 PHONE: (207)439-6023 FAX: (207)439-2128

SCALE: 1" = 40'
 DATE: 10/25/23
 JOB NO: C386-22 FILE: 293 RIVER ROAD 050223.DWG SHEET: 1 OF 1

APPROVED BY: *[Signature]*
 DRAWN BY: CBW
 REVISION DATE: - - -

TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903



PUBLIC HEARING NOTICE

AUTHORITY: Eliot, Maine Planning Board
PLACE: Town Hall (1333 State Rd.) with Remote Option
DATE OF HEARING: December 5, 2023
TIME: 6:00PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, December 5, 2023 at 6:00 PM for the following application:

- **293 River Road** (Map 18, Lot 12), PID# 018-012-000, PB23-19: Shoreland Zoning Permit Application – Residential Pier, Gangway, Floats, and Stairway
 - **Applicant:** 293 River Road, LLC
 - **Property Owner:** 293 River Road, LLC

Interested persons may be heard and written communication received regarding the proposed application at this public hearing. The application is on file and available for review in the Planning Office at Eliot Town Hall, 1333 State Road, Eliot, ME 03903. The meeting agenda and information on how join the remote Zoom meeting will be posted on the web page at eliotmaine.org/planning-board. Town Hall is accessible for persons with disabilities.

Advertisement

Committee Coordinator Hired

...to serve on the newly York River Stewardship Committee, which began meeting this summer. Committee meetings are held on the fourth of the month and are open to the public. The committee is a local partner and convener for implementing the Wild and Scenic River designation for York River. The committee was formed in 2022 legislation that transferred York River into the Wild and Scenic Rivers Program. The committee selected Hunter as its watershed coordinator. Hunter

served as coordinator for the earlier Wild and Scenic River study phase and was instrumental in developing the York River Watershed Stewardship Plan and helping achieve the national designation for the river. In the near term, Jennifer will work with the committee to identify and develop high priority projects for the group to undertake with the newly awarded federal funds. The committee also will establish a grant program to support local activities that enable communities to protect, enjoy, and benefit from a healthy river and watershed.

The national Wild and Scenic River designation for York River was the focus of a recent News Center Maine "207" story. Reporter Don Carignan toured the river and spoke at length with several York River Stewardship committee members. The resulting story aired on Wednesday, October 11. For more information, visit www.yorkrivermaine.org.

VDS from page 25

a joint statement. "This statement will help keep our fishermen and women safe and also protect the sustainability of our fisheries." The MCCF is a non-profit organization that works to secure the future for the communities of Eastern Maine and to end, the organization has launched a comprehensive three-year plan aimed at increasing safety measures on the fisheries. Under this plan, the MCCF will provide and survival training for fishermen and women

from high schools, particularly those located near commercial lobster fishing zones and with high poverty and unemployment rates, in Hancock, Washington, and Knox counties. The MCCF also intends to train two additional qualified drill conductor instructors in eastern Maine, and deploy crucial training materials. This initiative aims to instill a culture of safety-conscious behavior, effectively reducing injury risks and ensuring a secure and sustainable future for Maine's commercial fishing industry.

JOHN DEERE LX277
48" Mower with Deere 42" snow blower, all weights and chains and annually rebuilt engine, needs transmission adjustment \$1000 or best offer. Pick up in York. Call Frank: 603-557-3423.

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LEGAL NOTICES

LEGAL NOTICE OF LIEN & PROPOSED DISPOSITION
Let it be known that Kingman Yacht Center located at 1 Shipyard Lane, Calumet, Massachusetts 02534, phone 508-563-7136 x 108, will be filing for a lien of ownership and abandoned boat title of the below outlined property.
1975 26' Shock sailboat named "Windward Journey" located at 1134 Route 28-A, Bourne, Massachusetts 02532. Last known owner: Stephen Goodale, PO Box 741, York, Maine 03909.

PUBLIC & LEGAL NOTICES

TOWN OF BERWICK NOTICE OF PUBLIC HEARING
The Berwick Board of Appeals will hold a Public Hearing on an application submitted by Adam Al-Darraji (Map 0081 Lot 61-1). Mr. Al-Darraji is appealing an interpretation of the Ordinance by the Code Enforcement Officer.
Date: Wednesday November 29, 2023
Time: 5:30 p.m.
Place: Berwick Town Hall Meeting Room
All available relevant supporting documents are available at the Berwick Planning Department during normal business hours.

PUBLIC HEARING
To: Marianne Goodine or Michele Silvaletta-Noble, Cindy Appleby, Mark Dupuis, Kosalay Lambert, Mike Livingston, resident of the Town of Wells, County of York, and State of Maine; GREETINGS:
In the name of the State of Maine, you are hereby required to notify and warn the voters of the Town of Wells that the Board of Selectmen of said town will meet at the Municipal Building, 208 Sanford Road, Wells on the 21st day of November, 2023 at 6:00 p.m. in the evening.
The Board will conduct a public hearing on an Ordinance to amend Chapter 150, Licensing and Permits, Attachment 1, entitled Licenses and Permits, Town of Wells, Table 1". New Application fee for Lodging Facilities \$250.00, and Lodging Facility (renewal) fee of \$10.00 per unit.
SUBJECT BOARD OF THE TOWN OF WELLS

ZONING BOARD OF APPEALS NOTICE OF PUBLIC HEARINGS
MONDAY, NOVEMBER 27, 2023 @ 7:00 PM
LITTLEFIELD MEETING ROOM, WELLS TOWN HALL
208 SANFORD ROAD
I. VARIANCE APPEAL - David Romblol owner of 29 Cardinal Lane, further identified as Tax Assessor's Map 019 Lot 001-45, is requesting a Variance for a proposed home addition of a laundry room, a four-season room to the first floor and two bedrooms, a bathroom, and a bonus room on the second floor. This property resides in the Rural District (R), which requires a setback of 25' from all property lines. This property is also located in The Forest Subdivision which has reduced setbacks of 20' from all Right of Ways, and 15' from side and rear property lines. The requested Variance is asking for a new side setback of 9'2".
II. SETBACKS WITHIN RESOURCE PROTECTION & SHORELAND OVERLAY DISTRICTS - Gordon R. Smith, acting agent for co-applicant Owen & Company, is requesting to enhance/build a Road/Driveway (Bridges), located at 1922 Post Road (Map 143 Lot 004) and resides in the Residential Commercial Zoning District (RC). This Variance requested is asking for the existing 10'-12' wide driveway/bridge access to the property over the Blacksmith Brook to increase the width to 24' width roadway and 30' in total width.

Town of Kittery - Shellfish Licenses
Beginning December 1, 2023, the Town of Kittery will begin issuing Day Licenses for shellfish harvesting. Nine (9) Resident Day Licenses and one (1) Non-Resident Day License will be available for purchase daily on a first come, first serve basis during the harvest season.
For more information or to purchase a day license once available please visit www.kitterymaine.gov or email Shellfish Warden Chuck Horn at chorn@kitterymaine.org

Town of Kittery: Notice of Public Hearing
The Kittery Town Council shall hold a public hearing on November 27, 2023 at 6 p.m. in Town Council Chambers, 200 Rogers Road, Kittery. Kittery's Planning Board proposes amendments to comply with State law LD 2013 by providing density bonuses and reducing parking requirements for multifamily projects that include a mix of affordable units, allowing multiple dwellings to be constructed on residential properties, and eliminating parking requirements for ADUs. Amendments are also proposed to support property owners who wish to build in existing neighborhoods while limiting development in open space areas by changing the methods for calculating the number of units which can be built on a property and by allowing two accessory units on properties located in targeted growth areas.
The public can participate in person or virtually by following the link below: <https://us02web.zoom.us/j/81961461234>
A copy of the proposed amendments is on file with the Planning Department and may be viewed at Town Hall during normal business hours, at www.kitterymaine.gov, or by emailing mzakian@kitterymaine.org. All interested persons are invited to attend the public hearing in person or remotely and will be given an opportunity to be heard at the hearing or submit public comments via email to towncomments@kitterymaine.org by 12 p.m., November 27, 2023.

Town of Eliot PUBLIC HEARING NOTICE
AUTHORITY: Eliot, Maine Planning Board
PLACE: Town Hall (1335 State Rd.) with Remote Option
DATE OF HEARING: December 5, 2023
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26-27 / 32

WS Nov. 17, 2023

Published on Nov 15, 2023

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BELMONT, MA 02178

CHASE, DAVID Z
THOMAS, AMY L
297 RIVER RD
ELIOT, ME 03903

OVEN, BENJAMIN MORIARTY
OVEN, ELLEN MARIE
15 NEWSON LN #1
ELIOT, ME 03903

CHICK, ANDREW S REALTY TR
ANDREW CHICK TRUSTEE
318 RIVER RD
ELIOT, ME 03903

ROBILLARD, JULIE A
ROBILLARD, DENNIS P JR
278 RIVER RD
ELIOT, ME 03903

KRASNOW, BARRY E
KRASNOW, LINDA L
267 RIVER RD
ELIOT, ME 03903

VORCE, RAMONA LS
306 RIVER RD
ELIOT, ME 03903

LALTOO, ROBERT
C/O GES
7601 EAST TREASURE DRIVE PH
220
NORTH BAY VILLAGE, FL 33141

WATERS, KERRY I
WATERS, THOMAS J
282 RIVER RD
ELIOT, ME 03903

LAPORTE, , DEBORAH J
MARK, MICHAEL L
264 RIVER RD
ELIOT, ME 03903

WELSH, MEGAN
19 NEWSON LN #2
ELIOT, ME 03903

MACIAS, FELIX BAS
313 RIVER RD
ELIOT, ME 03903

YOUNG, MICHAEL S
315 RIVER RD
ELIOT, ME 03903

MCALLISTER, CHRISTIANE
312 RIVER RD
ELIOT, ME 03903

NEWSON LN MASTERCARD
NEWSON LN
ELIOT, ME 03903

NEWSON, DAVID W
21 NEWSON LN
ELIOT, ME 03903



ATTAR

ENGINEERING, INC

CIVIL • STRUCTURAL • MARINE

Mr. Jeffery Brubaker, AICP, Town Planner
Town of Eliot, Maine
1333 State Road
Eliot, Maine 03903

August 14th, 2023
Project No. C317-22

**RE: Shoreland Zone Permit Application
Retaining Wall (Tax Map 25, Lot 7)
419 River Road, Eliot, Maine**

Dear Mr. Brubaker:

On behalf of Anthony Warren, I have enclosed a Shoreland Zone Permit Application with supporting documents for your review and consideration.

The 9,236 Sq. Ft. parcel is located in the Suburban District/ Shoreland Overlay zone. It is located in a flood hazard zone.

Existing building is a 2 story residence with basement garage and driveway. The Owner is proposing to construct a retaining wall around back of the house to mitigate flooding issues, expansion of a rear deck over new retaining wall, removal of driveway to reduce overall impervious surface by 4% and regrading of rear yard to prevent flooding water from damaging the residential property. Additionally, the construction of a new garage addition and second floor storage area within setbacks.

We look forward to discussing this project with the Planning Board at their next available meeting. Please contact me for any additional information or clarifications required.

Sincerely;

Kenneth A. Wood, P.E.
President

FOR OFFICE USE ONLY:

PERMIT NO.: _____

ISSUE DATE: _____

FEE AMOUNT: _____

TOWN OF ELIOT
SHORELAND ZONING PERMIT APPLICATION

GENERAL INFORMATION

1. APPLICANT Anthony Warren	2. APPLICANT'S ADDRESS 1020 Salem St. North Andover, MA 01845	3. APPLICANT'S TEL. # 617-721-6985
4. PROPERTY OWNER Anthony Warren	5. OWNER'S ADDRESS 1020 Salem St. North Andover, MA 01845	6. OWNER'S TEL. # 617-721-6985
7. CONTRACTOR Owner	8. CONTRACTOR'S ADDRESS	9. CONTRACTOR'S TEL. #
10. LOCATION/ADDRESS OF PROPERTY 419 River Rd. Eliot	11. TAX MAP/PAGE & LOT # AND DATE LOT WAS CREATED Map 25 Lot 7 Predates Eliot Zoning	12. ZONING DISTRICT Suburban- Shoreland Overlay
13. DESCRIPTION OF PROPERTY INCLUDING A DESCRIPTION OF ALL PROPOSED CONSTRUCTION, (E.G. LAND CLEARING, ROAD BUILDING, SEPTIC SYSTEMS, AND WELLS - PLEASE NOTE THAT A SITE PLAN SKETCH IS REQUIRED ON PAGE 3). Existing 2 story residence with basement garage and driveway. Proposed construction of a retaining wall around back of house to mitigate flooding issues, expansion of rear deck over new retaining wall, removal of driveway to reduce overall impervious surface by 4% and regrading of rear yard to prevent flooding water from damaging the residential property. Construction of new garage addition and second floor storage area within setbacks.		

14. PROPOSED USE OF PROJECT Garage, storage, deck and retaining wall	15. ESTIMATED COST OF CONSTRUCTION \$225,000
---	---

SHORELAND AND PROPERTY INFORMATION

16. LOT AREA (SQ. FT.) 9,236 S.F.	17. FRONTAGE ON ROAD (FT.) 86' (+/-)
18. SQ. FT. OF LOT TO BE COVERED BY NON-VEGETATED SURFACES 3,474 S.F. (this is a reduction from the existing 3,915 S.F.)	19. ELEVATION ABOVE 100 YR. FLOOD First Floor- 6.1' above El 9.0
20. FRONTAGE ON WATERBODY (FT.) 113'+/-	21. HEIGHT OF PROPOSED STRUCTURE 22.5' above El. 9.0 Note: Existing Peak 27.8
22. EXISTING USE OF PROPERTY Residence	23. PROPOSED USE OF PROPERTY Residence

Note: Questions 24 & 25 apply only to expansions of portions of existing structures which are less than the required setback.

24. A) TOTAL FLOOR AREA OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89: _____ 1730* _____ SQ. FT.	25. A) TOTAL VOLUME OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89: _____ N/A _____ CUBIC FT.
B) FLOOR AREA OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/1/89 TO PRESENT: _____ 0 _____ SQ. FT.	B) VOLUME OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/1/89 TO PRESENT: _____ N/A _____ CUBIC FT.
C) FLOOR AREA OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK: _____ 483* _____ SQ. FT.	C) VOLUME OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK: _____ N/A _____ CUBIC FT.
D) % INCREASE OF FLOOR AREA OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/1/89:	D) % INCREASE OF VOLUME OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/1/89:

$(\% \text{ INCREASE} = \frac{B+C}{A} \times 100)$ $\underline{28\%^*} \quad \%$	$(\% \text{ INCREASE} = \frac{B+C}{A} \times 100)$ $\underline{N/A} \quad \%$
--	---

NOTE: IT IS IMPERATIVE THAT EACH MUNICIPALITY DEFINE WHAT CONSTITUTES A STRUCTURE, FLOOR AREA, AND VOLUME AND APPLY THOSE DEFINITIONS UNIFORMLY WHEN CALCULATING EXISTING AND PROPOSED SO. FT. AND CU. FT.

* Based on Plan by BRIBURN architecture

SITE PLAN

PLEASE INCLUDE: LOT LINES; AREA TO BE CLEARED OF TREES AND OTHER VEGETATION; THE EXACT POSITION OF PROPOSED STRUCTURES, INCLUDING DECKS, PORCHES, AND OUT BUILDINGS WITH ACCURATE SETBACK DISTANCES FROM THE SHORELINE, SIDE AND REAR PROPERTY LINES; THE LOCATION OF PROPOSED WELLS, SEPTIC SYSTEMS, AND DRIVEWAYS; AND AREAS AND AMOUNTS TO BE FILLED OR GRADED. IF THE PROPOSAL IS FOR THE EXPANSION OF AN EXISTING STRUCTURE, PLEASE DISTINGUISH BETWEEN THE EXISTING STRUCTURE AND THE PROPOSED EXPANSION.

NOTE: FOR ALL PROJECTS INVOLVING FILLING, GRADING, OR OTHER SOIL DISTURBANCE YOU MUST PROVIDE A SOIL EROSION CONTROL PLAN DESCRIBING THE MEASURES TO BE TAKEN TO STABILIZE DISTURBED AREAS BEFORE, DURING AND AFTER CONSTRUCTION (See attached guidelines)

See Attached

SCALE: _____ = _____ FT.

FRONT OR REAR ELEVATION

See Attached

SIDE ELEVATION

DRAW A SIMPLE SKETCH SHOWING BOTH THE EXISTING
AND PROPOSED STRUCTURES WITH DIMENSIONS

ADDITIONAL PERMITS, APPROVALS, AND/OR REVIEWS REQUIRED

CHECK IF REQUIRED:

- PLANNING BOARD REVIEW APPROVAL
(e.g. Subdivision, Site Plan Review)
- BOARD OF APPEALS REVIEW APPROVAL
- FLOOD HAZARD DEVELOPMENT PERMIT
- EXTERIOR PLUMBING PERMIT
(Approved HHE 200 Application Form)
- INTERIOR PLUMBING PERMIT
- DEP PERMIT (Site Location, **Forthcoming**
Natural Resources Protection Act)
- ARMY CORPS OF ENGINEERS PERMIT **Not Required**
(e.g. Sec. 404 of Clean Waters Act)

OTHERS:

---- _____
---- _____
---- _____
---- _____

NOTE: APPLICANT IS ADVISED TO CONSULT WITH THE CODE ENFORCEMENT OFFICER AND APPROPRIATE STATE AND FEDERAL AGENCIES TO DETERMINE WHETHER ADDITIONAL PERMITS, APPROVALS, AND REVIEWS ARE REQUIRED

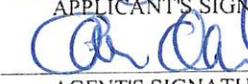
I CERTIFY THAT ALL INFORMATION GIVEN IN THIS APPLICATION IS ACCURATE. ALL PROPOSED USES SHALL BE IN CONFORMANCE WITH THIS APPLICATION AND THE TOWN OF ELIOT SHORELAND ZONING ORDINANCE. I AGREE TO FUTURE INSPECTIONS BY THE CODE ENFORCEMENT OFFICER AT REASONABLE HOURS.



APPLICANT'S SIGNATURE



DATE



AGENT'S SIGNATURE (if applicable)



DATE

APPROVAL OR DENIAL OF APPLICATION

MAP _____ LOT # _____

(For Office Use Only)

THIS APPLICATION IS: _____ APPROVED _____ DENIED

IF DENIED, REASON FOR DENIAL:

2025 RELEASE UNDER E.O. 14176

IF APPROVED, THE FOLLOWING CONDITIONS ARE PRESCRIBED:

NOTE: IN APPROVING A SHORELAND ZONING PERMIT, THE PROPOSED USE SHALL COMPLY WITH THE PURPOSES AND REQUIREMENTS OF THE SHORELAND ZONING ORDINANCE FOR THE TOWN OF ELIOT.

CODE ENFORCEMENT OFFICER _____ DATE _____

NOTE: THIS CHECKLIST IS INTENDED TO ASSIST THE CEO IN TRACKING A SHORELAND ZONING PERMIT THROUGH THE REVIEW PROCESS

Appendix 1

SHORELAND ZONING PERMIT CHECKLIST

CHECKOFF FOR ALL STRUCTURES:

- COMPLETE SHORELAND ZONING PERMIT APPLICATION
- PAY APPROPRIATE FEE
- LOT AREA
- % OF LOT COVERED BY NON-VEGETATED SURFACES
- HEIGHT OF STRUCTURE
- SETBACK FROM HIGH WATER LINE
- ELEVATION SETBACK FROM SIDE AND REAR LOT LINES
- % INCREASE OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK
- COPY OF INTERIOR AND EXTERIOR PLUMBING PERMITS
- COPY OF DEED
- ELEVATION OF LOWEST FLOOR TO 100 YEAR FLOOD ELEVATION
- COPY OF ADDITIONAL PERMIT(S) AS REQUIRED
(See Page 5 of Application Form)
- SOIL EROSION CONTROL PLAN PROVIDED

CHECKOFF FOR FURTHER REVIEW:

- COPY OF FILE TO BOARD OF APPEALS IF VARIANCE OR SPECIAL EXCEPTION IS REQUIRED
- COPY OF FILE TO PLANNING BOARD IF PLANNING BOARD REVIEW IS REQUIRED

CHECK OFF FOR SITE VISITS BY CEO:

- PRIOR TO CLEARING AND EXCAVATION
- PRIOR TO FOUNDATION POUR
- PRIOR TO FINAL LANDSCAPING
- PRIOR TO OCCUPANCY

NOTE: WHERE THE SHORELAND ZONING ORDINANCE REQUIRES A VARIANCE, A CONDITIONAL USE, OR SPECIAL EXCEPTION BY THE BOARD OF APPEALS OR THE PLANNING BOARD, THEN THIS SPECIAL PERMIT SHALL BE COMPLETED BY THE APPROPRIATE BOARD AND ATTACHED TO THE SHORELAND PERMIT APPLICATION.

Appendix 2

**Anthony Warren
419 River Road
Eliot, ME 03903**

September 22nd, 2022

Jeffery Brubaker
Town Planner
Town of Eliot
1333 State Road
Eliot, ME 03903

Dear Mr. Brubaker,

Please be informed that Kenneth A. Wood, P.E., (and other assigned Attar staff) of Attar Engineering, Inc. will be acting as my agents for the applications and permitting of my project at 419 River Road in Eliot, Maine.

Please contact me if I can provide any additional information.

Sincerely;

A handwritten signature in blue ink that reads "Anthony Warren". The signature is written in a cursive style.

Anthony Warren

cc: Kenneth A. Wood, P.E. Attar Engineering, Inc.

Return to:
Anthony M. Warren
Stephanie Warren
419 River Road
Eliot, ME 03903

NANCY E HAMMOND, REGISTER OF DEEDS
E-RECORDED **Bk 17940 PG 692**
Instr # 2019015302
05/01/2019 02:40:36 PM
Pages 2 YORK CO

DLN: 1001940056178

WARRANTY DEED

*aka Sue A. Dargan

Susan A. Dargan,* single, of 38 Garrison Drive, Eliot, ME 03903, for consideration paid grant to Anthony M. Warren and Stephanie Warren, husband and wife, of 1020 Salem Street, North Andover, MA 01845, as joint tenants with rights of survivorship, with warranty covenants;

A certain lot or parcel of land, together with any buildings thereon, situated in Eliot, in the County of York and State of Maine, lying between the River Road, so-called, and the Piscataqua River, bounded and described as follows: viz:

Beginning at the northeasterly corner of land formerly of William F. Hodgdon on the westerly side of said Road;

1. Northerly by the Road 86 feet to land now of one Kimball;
2. North 83° West by the Kimball land to the shore line of the River;
3. Southerly by the shore line of the River to the former Hodgdon land;
4. South 85° East by the former Hodgdon land to the point of beginning, together with whatever rights we may have to the flats adjoining this Lot.

This conveyance is made together with an easement for all or a portion of a waste disposal system serving 95 River Road which system is located on the abutting parcel, 93 River Road, pursuant to an Easement Agreement dated April 17, 1995 and recorded April 21, 1995 in Book 7391, Page 113 of the York County Registry of Deeds.

Meaning and intending to describe and convey the same premises conveyed to Susan A. Dargan by Warranty Deed from Joseph F. Carven, Jr. and Ann O'Brien Carven, dated June 30, 2011 and recorded in Book 16122, Page 71 of the York County Registry of Deeds.

The property is not the residence of the grantor and is not subject to homestead rights.

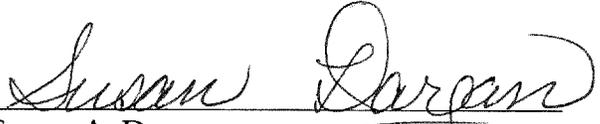
Maine R.E. Transfer Tax Paid

AWW

SAW

419 River Road, Eliot, ME 03903

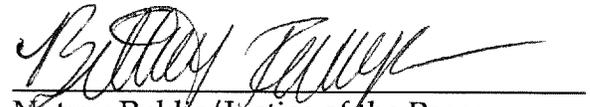
Executed this 1 day of May, 2019.

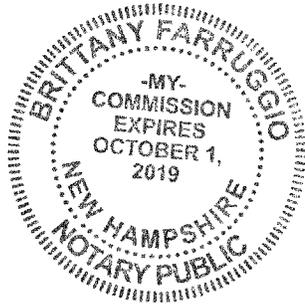

Susan A. Dargan
aka Sue A. Dargan

STATE OF New Hampshire
County of Rockingham, SS

Then personally appeared before me on this 1 day of May, 2019, the said Susan A. Dargan and acknowledged the foregoing to be her voluntary act and deed.

* aka Sue A. Dargan


Notary Public/Justice of the Peace
My commission expires: 10/1/2019



Return to:
Anthony M. Warren
Stephanie Warren
419 River Road
Eliot, ME 03903



Warren Application M25 L7

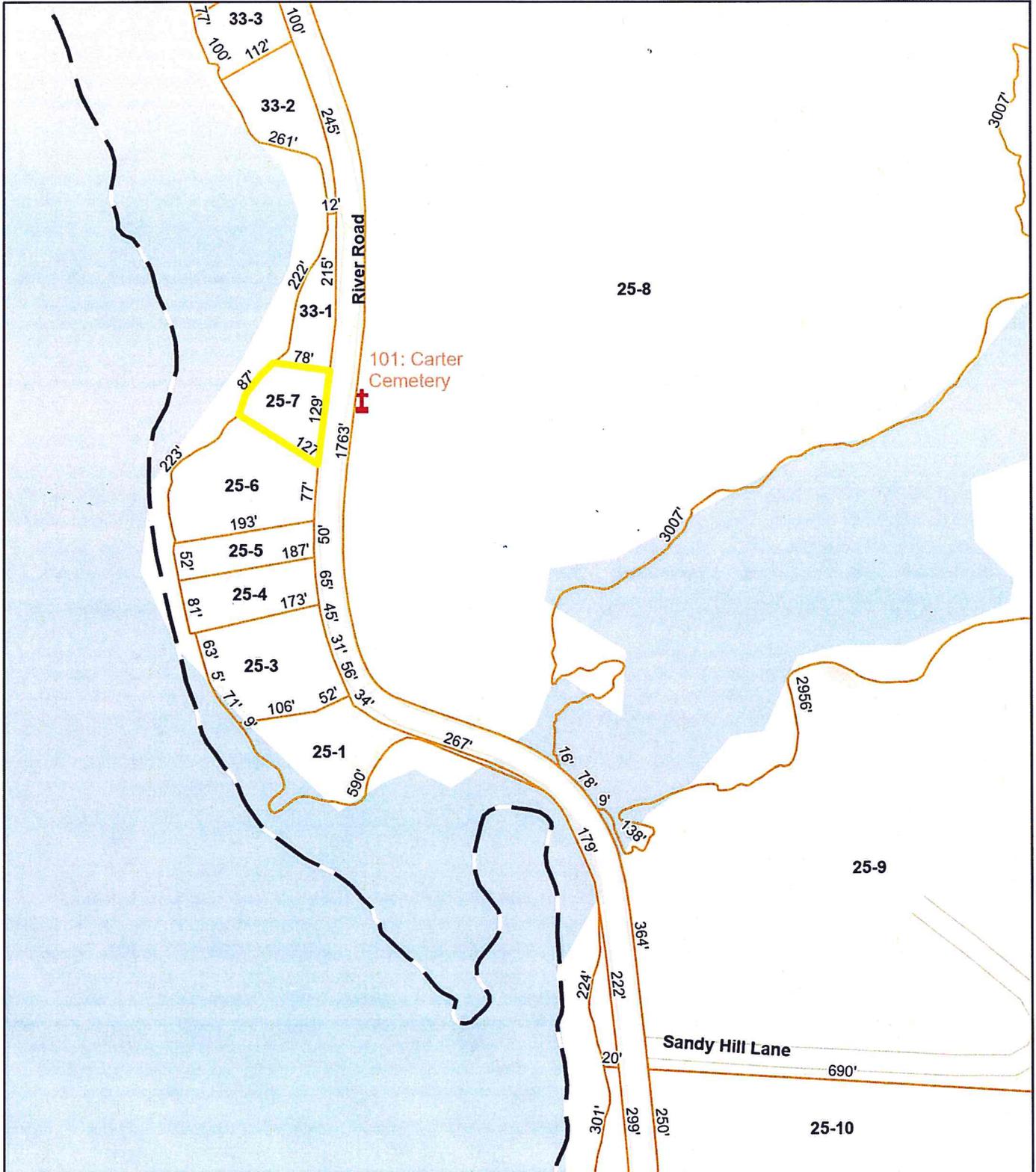
Town of Eliot, ME

1 inch = 188 Feet

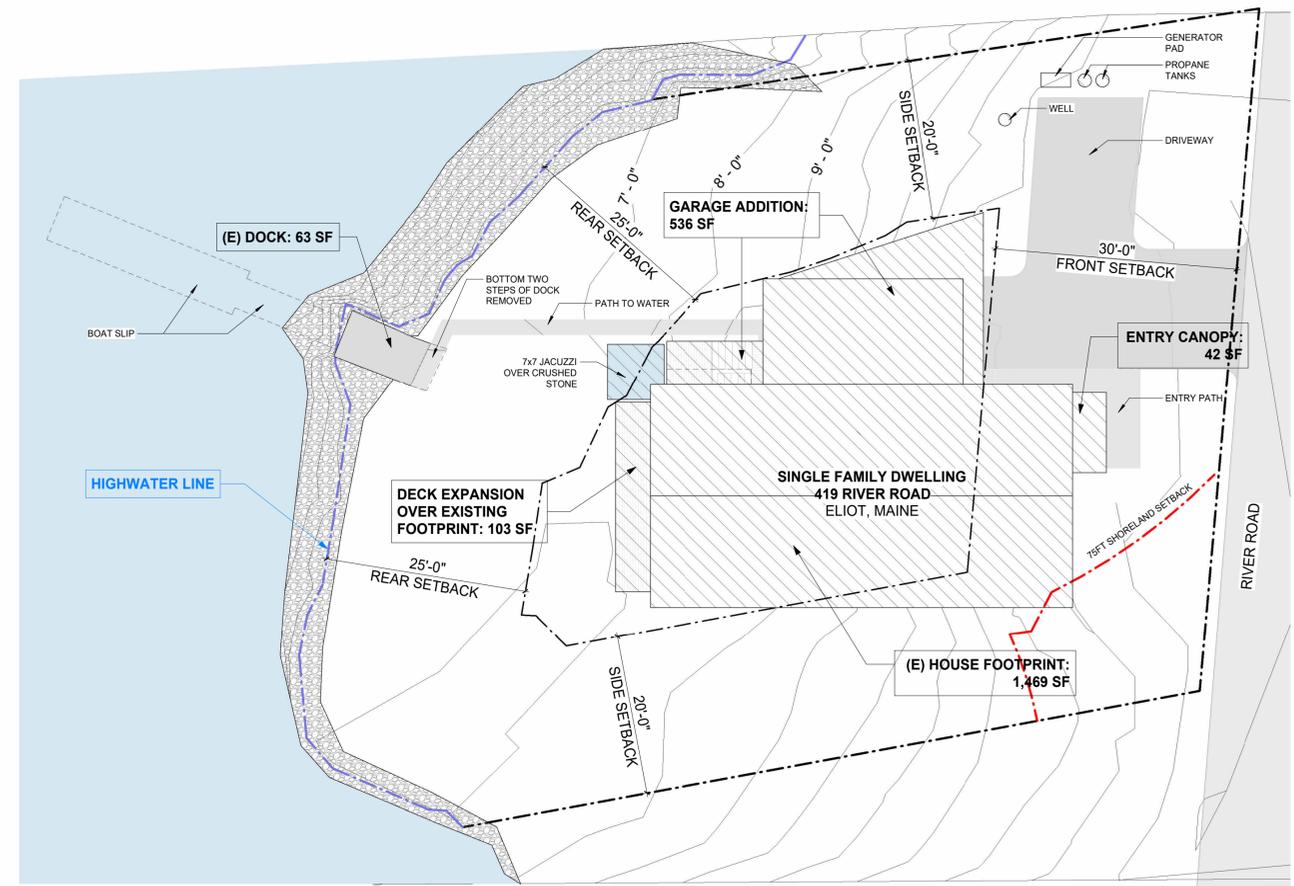
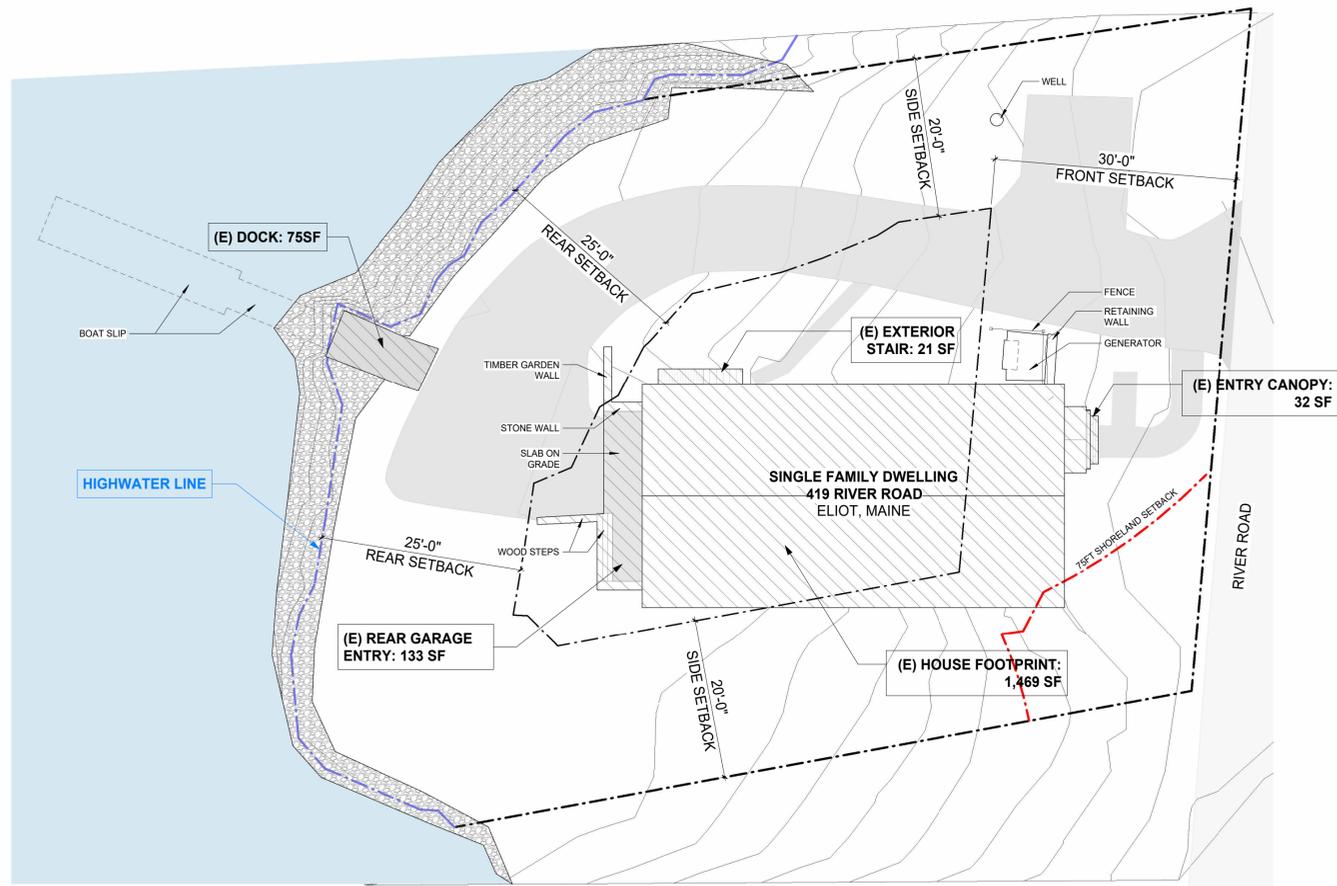


www.cai-tech.com

August 11, 2023



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.



1 EXISTING SITE PLAN - ZONING
3/32" = 1'-0"

2 PROPOSED SITE PLAN - ZONING
3/32" = 1'-0"

EXISTING STRUCTURAL FOOTPRINT:

- + EXISTING HOUSE: 1,469 SF
- + EXISTING DOCK: 75 SF
- + EXISTING REAR GARAGE ENTRY: 133 SF
- + EXISTING ENTRY CANOPY: 32 SF
- + EXISTING EXTERIOR STAIR: 21 SF

EXISTING TOTAL STRUCTURE: 1,730 SF

PROPOSED STRUCTURAL FOOTPRINT:

- + EXISTING HOUSE: 1,469 SF
- + EXISTING DOCK: 63 SF
- + PROPOSED GARAGE ADDITION: 536 SF
- + PROPOSED DECK EXPANSION: 103 SF
- + PROPOSED ENTRY CANOPY: 42 SF

PROPOSED TOTAL STRUCTURE: 2,213 SF

2,213 SF - 1,730 SF = 483 SF
 483 SF / 1,730 SF =
27.9% STRUCTURAL EXPANSION

Relevant Ordinance Sections:

1. For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30 percent larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

Section 44-35(b)4 - The total footprint area of all structures, driveways, parking areas and other nonvegetated surfaces, within the shoreland zone shall not exceed 20 percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the general development district, adjacent to tidal waters and rivers which do not flow to great ponds classified GPA, where lot coverage shall not exceed 70 percent.

Section 44-35(c)1 - No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in section 44-35(a), a second structure may be allowed and may remain as long as the lot is not further divided.

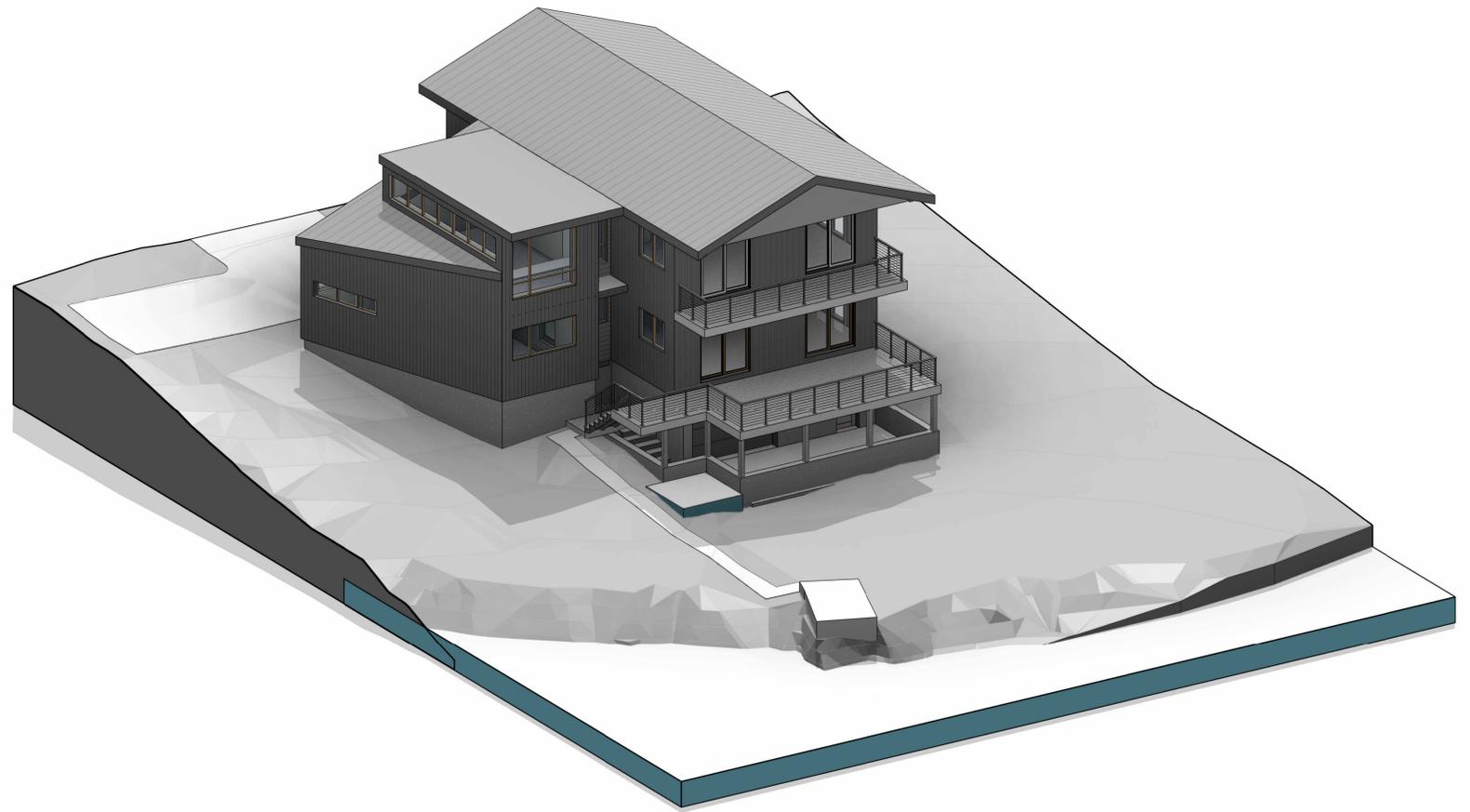
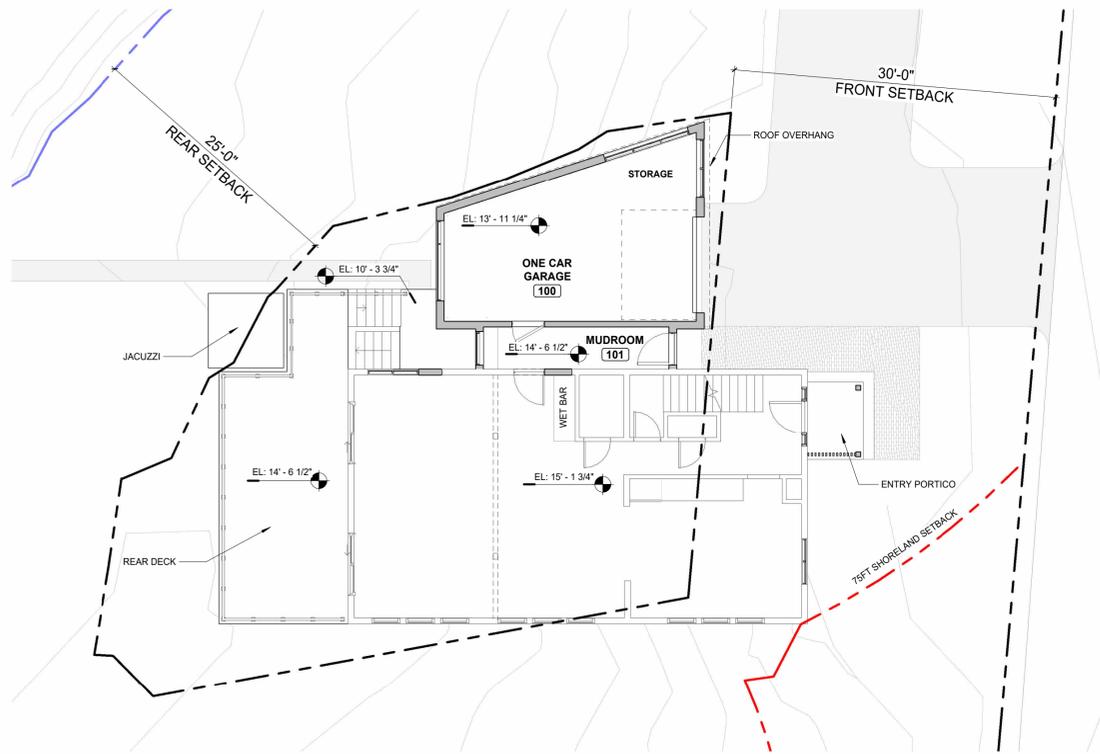
Section 1-2 STRUCTURE DEFINITION Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

CONSULTANTS:

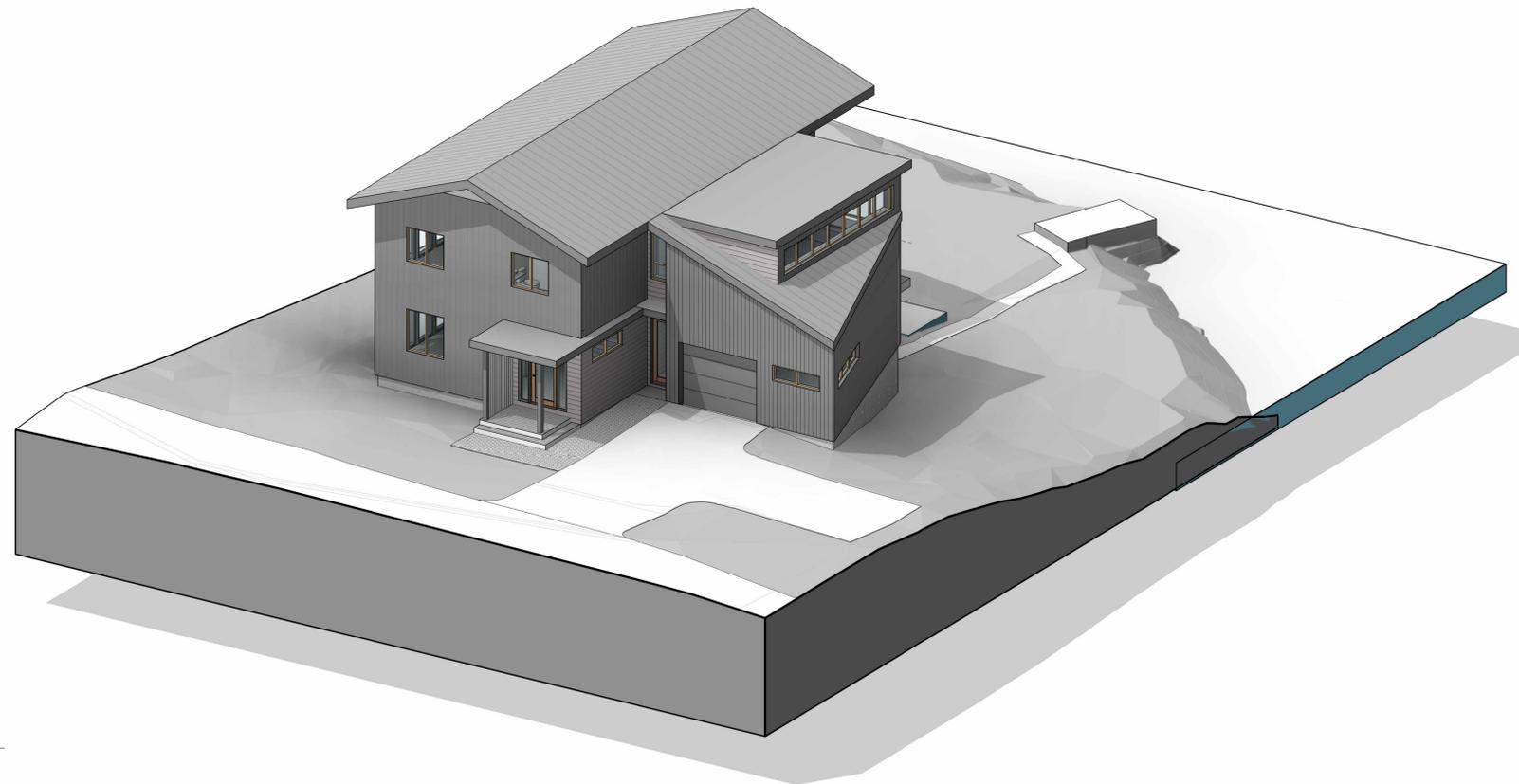
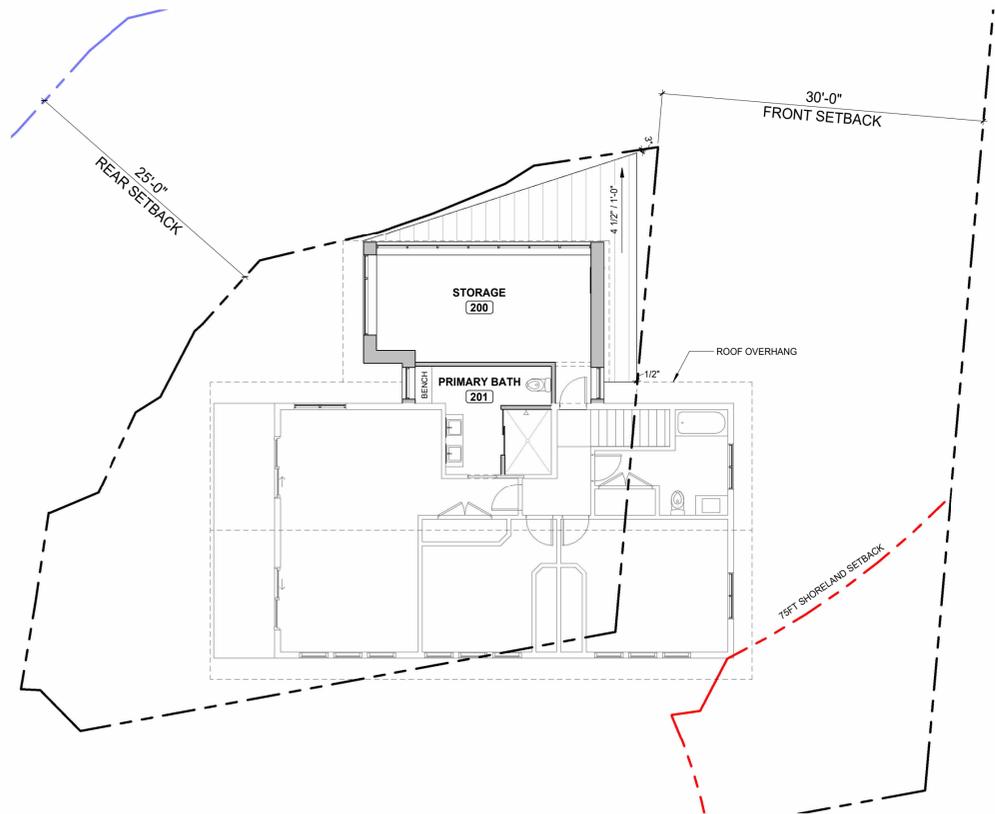
REVISIONS:

DATE	NAME	#

ISSUED: 08-08-2023
 PROJECT No: 2302
 DRAWN BY: SD
 CHECKED BY: HH
 SHEET TITLE:
 SITE PLAN -
 ZONING REVIEW



1 LEVEL 1 FLOOR PLAN
1/8" = 1'-0"



2 LEVEL 2 FLOOR PLAN
1/8" = 1'-0"

ELIOT RIVER HOUSE RENO
419 River Road, Eliot, Maine
Description of the Project Type

BRIBURN
architecture for life
28 Maple St. | Suite 202 | Portland, ME 04101 | 207-774-5852

CONSULTANTS:

REVISIONS:

#	DATE	NAME

ISSUED: 08-08-2023

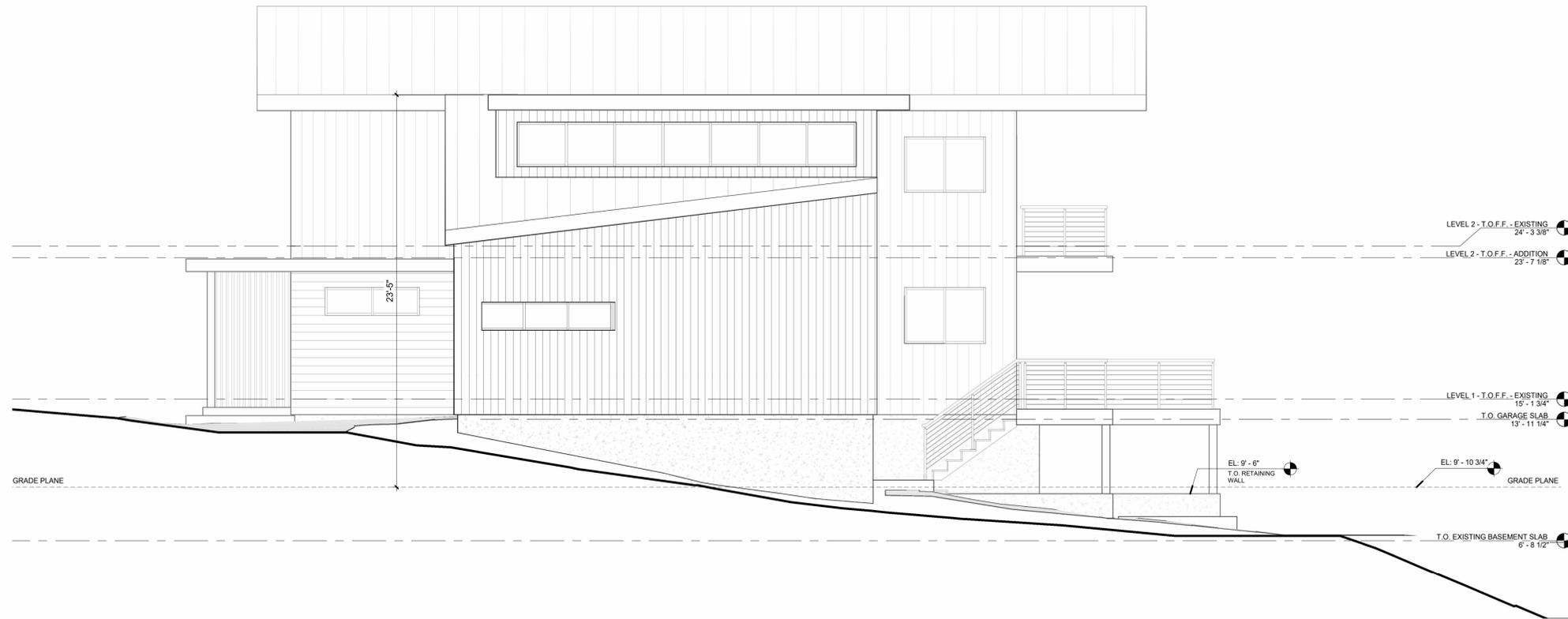
PROJECT No: 2302

DRAWN BY: SD

CHECKED BY: HH

SHEET TITLE:
FLOOR PLANS +
3D VIEWS

A004



3 PROPOSED - NORTH ELEVATION - PRES
1/4" = 1'-0"

ELIOT RIVER HOUSE RENO
419 River Road, Eliot, Maine

BRIBURN
architecture for life™
28 Maple St. Suite 202 Portland, ME 04101 207-774-6882

CONSULTANTS:

REVISIONS:

DATE	NAME	#

ISSUED: 08-08-2023

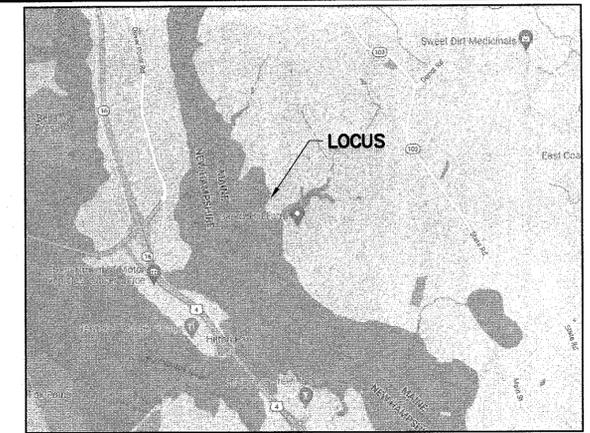
PROJECT No: 2302

DRAWN BY: SD

CHECKED BY: HH

SHEET TITLE:
EXTERIOR
ELEVATIONS

A005



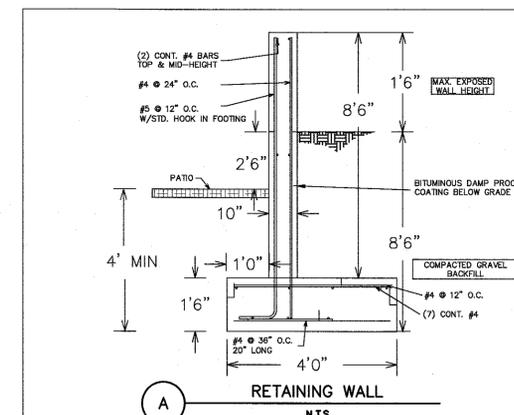
LOCATION PLAN NTS

CONSTRUCTION NOTES:

1. THE CONTRACTOR MUST CONTACT DIG SAFE AND ALL LOCAL UTILITIES PRIOR TO THE START OF CONSTRUCTION TO VERIFY THE LOCATION OF EXISTING SUBSURFACE UTILITIES AND CONDITIONS. LOCATING AND PROTECTING ANY UNDERGROUND OR ABOVE GROUND UTILITIES IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR.
2. ALL INTERFACES WITH EXISTING CONCRETE FOUNDATION SHALL BE CLEAN SURFACE, BARE CONCRETE WITH #5 REBAR, DRILLED AND EPOXIED EVERY 12" VERTICALLY. FINAL JOINT SHALL BE COATED WITH BITUMINOUS DAMP PROOFING OR EQUAL.
3. ALL BACK FILL SHALL BE CLEAN GRAVEL INSTALLED IN 12" LIFTS COMPACTED TO 95% STANDARD PROCTOR.

EROSION & SEDIMENTATION CONTROL NOTES:

1. SILTATION FENCE OR HAY BALE BARRIERS WILL BE INSTALLED DOWNSLOPE OF ALL STRIPPING OR CONSTRUCTION OPERATIONS. A DOUBLE SILT FENCE BARRIER SHALL BE INSTALLED DOWNSLOPE OF ANY SOIL MATERIAL STOCKPILES. SILT FENCES SHALL BE INSPECTED AFTER EACH RAIN EVENT AND DAILY DURING PROLONGED RAIN. SILT AND SOIL PARTICLES ACCUMULATING BEHIND THE FENCE SHALL BE REMOVED AFTER EACH SIGNIFICANT RAIN EVENT AND IN NO INSTANCE SHOULD ACCUMULATION EXCEED 1/2 THE HEIGHT OF THE FENCE. TORN OR DAMAGED AREAS SHALL BE REPAIRED.
2. TEMPORARY AND PERMANENT VEGETATION AND MULCHING IS AN INTEGRAL COMPONENT OF THE EROSION AND SEDIMENTATION CONTROL PLAN. ALL AREAS SHALL BE INSPECTED AND MAINTAINED UNTIL THE DESIRED VEGETATIVE COVER IS ESTABLISHED. THESE CONTROL MEASURES ARE ESSENTIAL TO EROSION PREVENTION AND ALSO REDUCE COSTLY REWORK OF GRADED AND SHAPED AREAS.
3. SEEDING, FERTILIZER AND LIME RATES AND TIME OF APPLICATION WILL BE DEPENDENT ON SOIL REQUIREMENTS. TEMPORARY VEGETATION SHALL BE MAINTAINED IN THESE AREAS UNTIL PERMANENT SEEDING IS APPLIED. ADDITIONALLY, EROSION AND SEDIMENTATION MEASURES SHALL BE MAINTAINED UNTIL PERMANENT VEGETATION IS ESTABLISHED.
4. REMOVE ANY TEMPORARY CONTROL MEASURES, SUCH AS SILTATION FENCE, WITHIN 30 DAYS AFTER PERMANENT STABILIZATION IS ATTAINED. REMOVE ANY ACCUMULATED SEDIMENTS AND STABILIZE.
5. IF THE AREA WILL NOT BE WORKED FOR MORE THAN ONE YEAR OR HAS BEEN BROUGHT TO FINAL GRADE, THEN PERMANENTLY STABILIZE THE AREA WITHIN 7 DAYS BY PLANTING VEGETATION, SEEDING, SOD, OR THROUGH THE USE OF PERMANENT MULCH, OR RIPRAP, OR ROAD SUB-BASE. IF USING VEGETATION FOR STABILIZATION, SELECT THE PROPER VEGETATION FOR THE LIGHT, MOISTURE, AND SOIL CONDITIONS; AMEND AREAS OF DISTURBED SUBSOILS WITH TOPSOIL, COMPOST, OR FERTILIZERS; PROTECT SEEDING AREAS WITH MULCH OR, IF NECESSARY, EROSION CONTROL BLANKETS; AND SCHEDULE SODDING, PLANTING, AND SEEDING SO TO AVOID DIE-OFF FROM SUMMER DROUGHT AND FALL FROSTS. NEWLY SEEDING OR SODDED AREAS MUST BE PROTECTED FROM VEHICLE TRAFFIC, EXCESSIVE PEDESTRIAN TRAFFIC, AND CONCENTRATED RUNOFF UNTIL THE VEGETATION IS WELL-ESTABLISHED WITH 90% COVER BY HEALTHY VEGETATION. IF NECESSARY, AREAS MUST BE REWORKED AND RESTABILIZED IF GERMINATION IS SPARSE, PLANT COVERAGE IS SPOTTY, OR TOPSOIL EROSION IS EVIDENT. ONE OR MORE OF THE FOLLOWING MAY APPLY TO A PARTICULAR SITE.
6. FOR SEEDING AREAS, PERMANENT STABILIZATION MEANS A 90% COVER OF THE DISTURBED AREA WITH MATURE, HEALTHY PLANTS WITH NO EVIDENCE OF WASHING OR RILLING OF THE TOPSOIL.
7. FOR SODDED AREAS, PERMANENT STABILIZATION MEANS THE COMPLETE BINDING OF THE SOD ROOTS INTO THE UNDERLYING SOIL WITH NO SLUMPING OF THE SOD OR DIE-OFF.
8. FOR MULCHED AREAS, PERMANENT MULCHING MEANS TOTAL COVERAGE OF THE EXPOSED AREA WITH AN APPROVED MULCH MATERIAL. EROSION CONTROL MIX MAY BE USED AS MULCH FOR PERMANENT STABILIZATION ACCORDING TO THE APPROVED APPLICATION RATES AND LIMITATIONS.
9. FOR AREAS STABILIZED WITH RIPRAP, PERMANENT STABILIZATION MEANS THAT SLOPES STABILIZED WITH RIPRAP HAVE AN APPROPRIATE BACKING OF A WELL-GRADED GRAVEL OR APPROVED GEOTEXTILE TO PREVENT SOIL MOVEMENT FROM BEHIND THE RIPRAP. STONE MUST BE SIZED APPROPRIATELY. IT IS RECOMMENDED THAT ANGULAR STONE BE USED.
10. FOR PAVED AREAS, PERMANENT STABILIZATION MEANS THE PLACEMENT OF THE COMPACTED GRAVEL SUBBASE IS COMPLETED, PROVIDED IT IS FREE OF FINE MATERIALS THAT MAY RUNOFF WITH A RAIN EVENT.
11. ALL AREAS WITHIN 75 FEET OF A PROTECTED NATURAL RESOURCE SHALL BE PROTECTED WITH A DOUBLE ROW OF SEDIMENT BARRIERS.
12. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ADEQUATE HOUSEKEEPING PRACTICES DURING THE CONSTRUCTION OF THE PROJECT. THESE STANDARDS CAN BE FOUND IN THE FOLLOWING DOCUMENT: MDEP CHAPTER 500 (STORMWATER MANAGEMENT), APPENDIX C. HOUSEKEEPING. HOUSEKEEPING PRACTICES INCLUDE, BUT ARE NOT LIMITED TO, SPILL PREVENTION, GROUNDWATER PROTECTION, FUGITIVE SEDIMENT AND DUST, DEBRIS AND OTHER MATERIALS, EXCAVATION DEWATERING, AUTHORIZED NON-STORMWATER DISCHARGES AND UNAUTHORIZED NON-STORMWATER DISCHARGES (DETAILED BELOW).



PERMITTING PRINT - NOT FOR CONSTRUCTION
TAX MAP 25, LOT 7

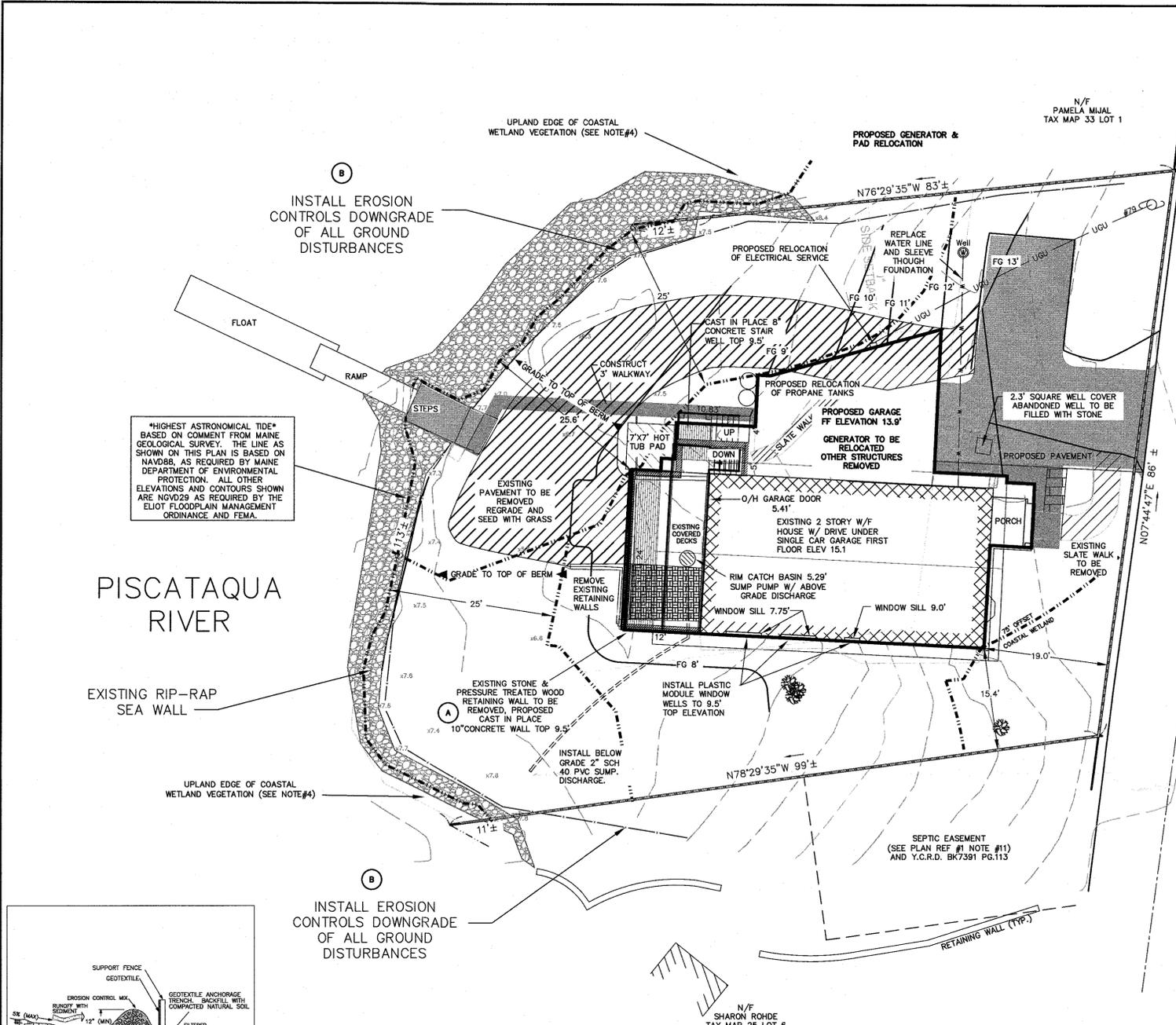
SITE PLAN FOR ANTHONY & STEPHANIE WARREN GARAGE, RETAINING WALL & GRADING

FOR: ANTHONY & STEPHANIE WARREN
419 RIVER RD
ELIOT, ME, 03903

ATTAR ENGINEERING, INC.
CIVIL • STRUCTURAL • MARINE • SURVEYING
1284 STATE ROAD - ELIOT, MAINE 03903
PHONE: (207)439-6023 FAX: (207)439-2128

SCALE: 1" = 10'
DATE: 06/13/2022
APPROVED BY: [Signature]
DRAWN BY: CBW
REVISION DATE: 1 : 09/22/2022

JOB NO: C317-22/FILE: RIVER ROAD - WARREN 080123.DWG SHEET: 1 OF 1



AREA CALCULATIONS:

TOTAL LOT AREA:	9236± S.F.
EXISTING NON VEGETATED AREA	3915 S.F. (42±%)
NET REDUCTION IN NON VEGETATED AREA	441 S.F.
PROPOSED COMPLETED NON VEGETATED AREA	3474 S.F. (38±%)

AREAS BASED ON PLAN BY BRIBURN ARCHITECTURE	
EXISTING PRE-1989 FLOOR AREA	1730 S.F.
PROPOSED FLOOR AREA	2213 S.F.
PROPOSED INCREASE IN FLOOR AREA	483 S.F.

% INCREASE 28%

PLAN REFERENCES:

1. EXISTING CONDITIONS PLAN FOR PROPERTY AT 419 RIVER ROAD, ELIOT YORK COUNTY, MAINE, OWNED BY ANTHONY M. WARREN, STEPHANIE WARREN, BY EASTERLY SURVEYING, INC. DATED 11/18/19, UNRECORDED

NOTES:

1. BEARINGS ARE BASED ON GRID NORTH, MAINE STATE PLANE COORDINATE SYSTEM, WEST ZONE, NAD83. ELEVATIONS ARE BASED ON NVGD 1929, EXCEPT AS NOTED, RELATING TO THE HIGHEST ASTRONOMICAL TIDE, WHICH IS BASED ON NAVD88, PER MAINE GEOLOGICAL SURVEY.
2. THE BOUNDARY INFORMATION, AS SHOWN ON THIS PLAN IS FROM PLAN REFERENCE #1 ONLY. NO FURTHER BOUNDARY RELATED WORK HAS BEEN PERFORMED AS PART OF THIS PROJECT.
3. THIS PLAN PROVIDES DETAILS FOR IMPROVEMENTS AT 419 RIVER ROAD ELIOT, MAINE CONSISTING OF A NEW GARAGE, RETAINING WALL, AND GRADING.
4. BASED ON SITE SPECIFIC OBSERVATIONS OF WATER (TIDAL) LEVELS AND COASTAL WETLAND VEGETATION.

ZONING:

SUBURBAN DISTRICT- SHORELAND ZONE OVERLAY

PRE-EXISTING (NON-CONFORMING) LOT OF RECORD

MIN FRONT SET BACK: 30'

MIN SIDE SET BACK: 20'

MIN REAR SETBACK: 30'

MAX LOT COVERAGE: 25%

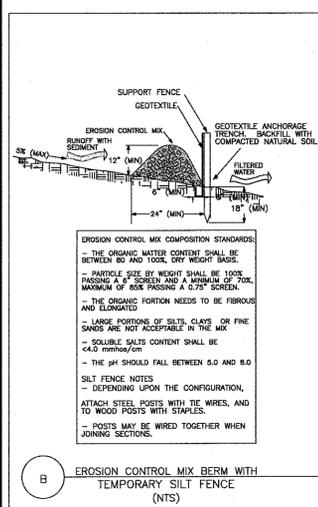
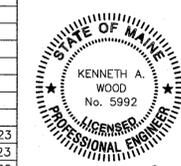
MAX IMPERVIOUS AREA 20%

MIN LOT SIZE 2 AC.

SIGNATURE	DATE
CHAIR	



NO.	DESCRIPTION	DATE
3	BUILDING FOOT PRINT	08/03/23
2	H.A.T. PER MDEP	02/17/23
1	COASTAL WETLAND SETBACK	09/22/22



- LEGEND:**
- FIP FOUND IRON PIPE, AS NOTED
 - FIR FOUND IRON ROD, AS NOTED
 - WELL
 - UTILITY POLE
 - STONE WALL
 - N/F LAND, NOW OR FORMERLY, OF
 - YCRD YORK COUNTY REGISTRY OF DEEDS
 - 7654/321 VOLUME/PAGE OF RECORDED DOCUMENT
 - IRON ROD TO BE SET, 5/8 INCH Ø, WITH IDENTIFICATION CAP SCRIBED ATTAR ENG INC MEPLS1311



TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board
 From: Jeff Brubaker, AICP, Town Planner
 Cc: Walter E. Pelkey, BH2M, Applicant's Representative
 Shelly Bishop, Code Enforcement Officer
 Date: November 30, 2023 (report date)
 December 5, 2023 (meeting date)
 Re: PB23-16: 76 Cedar Rd. (Map 71, Lot 25) – Residential Subdivision (5 lots) – **sketch plan**

Application Details/Checklist Documentation	
Address	76 Cedar Rd.
Map/Lot	71/25
PB Case#	23-16
Zoning District(s)	Rural (not in Critical Rural Overlay)
Shoreland Zoning District(s)	Limited Residential
Property Owner(s)	David Springer
Applicant Name(s)	David Springer
Proposed Project	5-lot conventional residential subdivision
Sketch Plan	
✓ Application Received by Staff	May 4, 2023
✓ Application Sent to Staff Reviewers	August 22, 2023
✓ Application Reviewed By PB	September 19, October 3, and November 14, 2023
✓ Site Walk	October 17, 2023
✓ Site Walk Publication	October 8, 2023 (Portsmouth Herald/Seacoast Online)
Sketch Plan Approval	
Preliminary Plan	
Application Received by Staff	
Fee Paid and Date	
Application Sent to Staff Reviewers	
Notice Mailed to Abutters	
Application Reviewed by PB	
Application Found Complete by PB	
Public Hearing	
Public Hearing Publication	
Preliminary Plan Approval	
Final Plan	

Application Received by Staff	
Fee Paid and Date	
Application Reviewed by PB	
Public Hearing (if any)	
Public Hearing Publication	

Overview

Applicant seeks sketch plan review for a 5-lot conventional residential subdivision of the subject ~21.5-acre parcel, which is undeveloped. The total number of house lots has been reduced by one compared to previous sketch plans, as the applicant has replaced former Lot 1 house lot with an open space lot, per review comments.

Affidavit of ownership

Photo of the warranty deed signature page included in previous submittal

There was some question about whether the parcel was part of the adjacent conservation easement held by Great Works Land Trust (GWLT), but in communicating with GWLT, this parcel is not part of the easement. The applicant indicated that the property was taken out of the state’s Farmland Current Land Use tax program.

Zoning

Rural (outside of Critical Rural Overlay [CRO]); LR shoreland zoning in one corner of the lot

Shoreland zoning – Lot 1 question

See previous packets – addressed by the dedication of former house Lot 1 as an open space lot.

Open Space Development

An Open Space Development (OSD) is optional for the applicant since the tract is outside of the CRO [45-467(B)]. The applicant has maintained a preference for a conventional subdivision.

Dimensional requirements

Standard	Planner review
Min. lot size: 3 acres [41-255; 41-218(e); 45-405]	Met , unless larger lots needed for subsurface wastewater systems based on soil characteristics
Min. street frontage: 200 ft.	Appears to be met for Lots 1-3. Not met for Lots 4-5.
Min. street frontage waiver/modification	Applicant is seeking a 50% reduction in street frontage for cul-de-sac Lots 5-6 per 41-255(g).
Setbacks: appropriate for location of subdivision and type of development/use contemplated [41-255]. 45-405 setbacks: 30’ front/20’ side/30’ rear	Standard setbacks shown on sketch plan

House lot layouts

Per PB September 19 review comment, the updated sketch plan shows typical house and septic locations, well exclusion zones around the septic locations, driveways, and (as shown previously) the wetland impact area related to the Lot 3 driveway.

Ch. 41, Art. IV – General Requirements

Section	Standard/ summary	Planner review
41-212	Air quality	No comments currently
41-213	Water quality	No comments currently
41-214	Soil quality and erosion-sedimentation control	<p>Soil map and classifications included in application. Soils report will be needed at preliminary plan submittal, unless waived by the PB [41-150(11)]</p> <p>April 6, 2023, soil narrative report included in 10/3/23 submittal – “Class B-High Intensity Soil Survey (Minimum Standards)” – signed/sealed by Mark J. Hampton, certified Maine soil scientist. Soils:</p> <ul style="list-style-type: none"> • Buxton – Group C – moderately well drained, test pits SS-4, SS-5, and SS-9 • Lamoine – Group D – somewhat poorly drained, test pits SS-2 and SS-7 • Scantic – Group D – poorly drained, test pits SS-1, SS-3, SS-6, and SS-8 located in wetland areas <p>Modified soils report was submitted on October 18 with updated test pit information for SS-8, showing a limiting factor of 6” instead of 15”.</p>

41-215	Preservation of natural resources and scenic beauty	<p>Lot is undeveloped with agricultural fields, woodlands, and wetlands. Per applicant, lot was taken out of the Maine Current Land Use (Farmland) Tax Program (corrected from previous report that cited Tree Growth). As noted above, it is not in the adjacent conservation easement.</p> <p>Per ECC and PB review comments, applicant’s 10/3/23 meeting submittal includes an April 7, 2023, letter from Mark J. Hampton, C.S.S., L.S.E. (Certified Soil Scientist #216, Licensed Site Evaluator #263) outlining his delineation, the flagging of wetlands and the transmittal of wetland flag locations to the applicant’s engineer, BH2M, for mapping. The letter notes that the wetlands “do not meet the definition of wetlands of special significance as defined by [DEP]”. The updated sketch plan (with house/septic locations) continues to show the avoidance of wetland impacts except for the Lot 3 driveway (3,900 sf). An updated wetland letter (in packet) provided on October 18 also states that the “wetlands found onsite are not coastal wetlands as defined by [DEP]”.</p> <p>Also in the 10/3/23 meeting submittal is an April 8, 2023, letter from Mr. Hampton describing his vernal pool assessment, stating in part: “all the wetlands evaluated on the parcel do not have the parameters to support a vernal pool, there were no areas of ponded water of sufficient depth to support amphibian breeding environment.” An updated vernal pool letter (in packet), dated April 8, 2022/October 12, 2023, states: “I found no evidence of any indicator species for vernal pools on the property.”</p>
41-216	Preservation of historical features and traditional land use pattern	<p>The 2009 Comprehensive Plan lists the landscape as part of a scenic view. It is recommended that a scenic view evaluation be included in a landscape plan as part of preliminary plan submittal.</p>
41-217	Water supply	<p>The general location of individual wells shall be indicated on the subdivision plan by a Maine-licensed site evaluator [41-217(d)]. This is a requirement but may be deferred to submittal of the preliminary subdivision plan. The sketch plan shows well exclusion areas around the septic fields.</p>
41-218	Sewage disposal	<p>The sketch plan shows septic locations, and the submittal includes soil test pit results [41-218(d)]. PB comment about nitrates by the wetlands was discussed by the applicant’s representative on September 19.</p>

41-220	Relationship of subdivision to community services	Per 41-220(c), up to 10% open space may be required by PB. See November 1 letter/memo to applicant in your packet. In summary, it recommends that the PB activate the 10% open space requirement, focusing on the front portion of the lot near Cedar Rd. and the shoreland zoning buffer, and that the sketch plan be revised accordingly. The applicant has revised the plan to include the open space.
41-221	Traffic and streets	The applicant proposes a minor cul-de-sac street built to Town standards and proposed to be dedicated to the Town, with a 40 ft. right-of-way width and a length of 1,000 ft., the maximum allowed. The street would serve all five lots from Cedar Rd.
41-222	Public health and safety	No comments currently
41-223	Local/state/federal land use policies	No comments currently

Subdivision design standards

Section 41-255 – Lots

See previous packets. No new review comments.

Section 41-256 – Reservation of land

The PB may require reservation of land for parks and/or recreational purposes, or may waive the requirement. If the latter, the PB may require a cash payment-in-lieu (PIL). No public parks are located within 1 mile of the subdivision.

After reviewing these options, the option discussed at the November 14 review was a side path to be located on the east side of the road, which is proposed to ultimately be dedicated to the Town as a public road. This could serve as a passive recreation amenity for the new houses and others who live on Cedar Rd., and would include a small unpaved parking area, potentially where there is a current small clearing where the site walk participants started. The open space lot (Former Lot 1) would remain undeveloped, conserved open space that could offer opportunities for wildlife viewing from the path.

Site walk/inspection and contour interval

A site walk was held on October 17, 2023, including several PB members, the applicant’s representative, and members of the public. The site walk notes were summarized by Ms. O’Connor at the November 14 meeting.

The PB has recommended a **1-foot interval** to be used for the preliminary plan.

Stormwater and erosion-sedimentation control plan

Per the applicant, the application will need a stormwater permit-by-rule (PBR) from DEP. Per the Town Code, at preliminary plan submittal, a stormwater/drainage plan is required [41-150(9) and 41-213] as well as an erosion and sedimentation control plan [41-150(10), 41-214, and Ch. 34].

On November 14, Mr. Shiner suggested that the applicant address potential drainage impacts on Lot 5, and the applicant concurred.

Buffer and Lot 1 driveway

Per PB comment on November 14, the applicant will need to incorporate a property buffer per 41-215, including, but not limited to, a vegetative or other appropriate buffer on the west side of the proposed road between the road and adjacent property at Map 71, Lot 30. The applicant agreed to address this via plantings. PB comments suggested mature plants as opposed to seedlings.

Chair Bennett also suggested changing the orientation of the Lot 1 driveway so that exiting vehicle headlights do not point at the adjacent property’s house.

Other notes

- Part of Lot 1 is in a flood zone, per 1989 FEMA FIRM map.
- Note ECC comments provided previously.
- Per 37-70, Chair Bennett noted that the max grade of a minor street is 8%. The applicant stated they will look at this for the preliminary plan and are confident they can meet this grade.

Recommendation

Approve the cul-de-sac lot frontage waiver. Approve the sketch plan, noting that in the preliminary plan, the applicant should address the review comments provided by the PB so far.

Motion templates

Cul-de-sac lot reduction approval (recommended)

Motion to approve a street frontage reduction, per Section 41-255(g), allowing street frontage for Lots 4 and 5 to be reduced by up to 50%, to have no less than 100 ft. of frontage on the cul-de-sac.

Sketch plan approval (recommended)

Motion to approve the sketch plan for PB23-16, 76 Cedar Rd. residential subdivision with 5 house lots. Per 41-141, the preliminary plan shall conform to the layout shown on the sketch plan, accounting for sketch plan review recommendations and comments.

Sketch plan disapproval

Motion to disapprove the sketch plan for PB23-16 for the following reasons:

- _____
- _____
- _____

1 **ITEM 1 - ROLL CALL**

2
3 Present: Carmela Braun – Chair, Jeff Leathe – Vice Chair, Christine Bennett – Secretary,
4 and Suzanne O’Connor.

5
6 Also Present: Jeff Brubaker, Town Planner.

7
8 Absent: Jim Latter (excused).

9
10 Voting members: Carmela Braun, Jeff Leathe, Christine Bennett, and Suzanne O’Connor
11 (appointed).

12
13 Ms. Braun said that, before I start the meeting, I would like to take a few moments to
14 reflect on our colleague, Steve Robinson, who passed away suddenly. So, if we could
15 have a moment, please.

16
17
18 **ITEM 2 – PLEDGE OF ALLEGIANCE**

19
20 **ITEM 3 – MOMENT OF SILENCE**

21
22 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

23
24 There was no public input.

25
26 **ITEM 5 – REVIEW AND APPROVE MINUTES**

27
28 There were no minutes reviewed tonight.

29
30 **ITEM 6 – NOTICE OF DECISION**

31
32 There were no Notices of Decision reviewed tonight.

33
34 **ITEM 7 – PUBLIC HEARING**

35
36 **A. 360 River Road (M25/L11), PB22-22: Shoreland Zoning Permit Application –**
37 **Residential Pier, Gangway, Float, Boardwalk, and Stairway.**

38
39 **Received: December 7, 2022**

40 **1st Heard: February 7, 2022 (sketch/site plan review/completeness)**

41 **2nd Heard: March 7, 2023 (continued review/Public Hearing/approval)**

42 **Public Hearing: March 7, 2023**

43 **Site Walk: N/A**

44 **Approval: March 7, 2023**

45

46 Mr. (Ryan) McCarthy, P.E., P.L.S., (Tidewater Engineering & Surveying, Inc.) was
47 present for this application.

48

49 **6:02 PM Public Hearing opened.**

50

51 Mr. Brubaker said that the recommendation is approval with conditions and you see the
52 motion templates in your staff report. I emailed that staff report today but you should
53 have paper copies up on the dais.

54

55 Mr. McCarthy, Tidewater Engineering & Surveying, Inc, here to represent the applicant,
56 Robert Holderith. This 360 River Road (Tax Map 25/Lot 11). The applicant is proposing
57 a residential pier, gangway, and float at this property. There's a 4'X16' access ramp,
58 6'X60' permanent fixed-timber Pier, 3'X30' ramp that leads down to a 10'X30' float.
59 The float will be on skids because, at low tide, this is a mudflat. Low tide is much further
60 out and there's no way we can actually get deep water, here, without going quite a ways
61 out. We do have access stairs on the side of the pier, 4'X14', to provide a safe means of
62 accessing the intertidal area and shoreline. Permanent impacts are just limited to 10
63 square feet. Those are the 12" diameter pilings that support the permanent pier. Indirect
64 impacts are limited to about 758 square feet. This is shading caused by the pier, gangway,
65 and float. We've selected a location for this pier to avoid trees so tree removal is not
66 necessary for the installation of the pier. And also, we are avoiding any marsh grasses so
67 that we don't impact those areas. At this time, we do have an ACOE Permit and we also
68 have a Maine DEP Permit. Both of those are in hand. So, with that, I will hand it back
69 over to the PB.

70

71 There was no public comment.

72

73 Mr. Brubaker said that my staff report says that the fee needs to be confirmed and they
74 did pay the fee.

75

76 **6:05 PM Public Hearing closed.**

77

78 Ms. Bennett said that I have one question and it refers to the Planner's staff report and the
79 report that came in from the Maine Department of Inland Fisheries & Wildlife (MDIFW).
80 They recommend at least a 3/4" spacing between the dock planks to allow for future marsh
81 grass growth. Have you accommodated that recommendation into your designs.

82

83 Mr. McCarthy said yes. That was part of the conditions of approval from the DEP. We've
84 agreed to do the 3/4" spacing.

85

86 Ms. Braun asked if there were any more questions.

87

88 Mr. Leathe said that I was not at the prior meeting so I'm not sure if I should abstain.

89

90 Ms. Braun asked if he was comfortable with the application.

91

92 Mr. Leathe said that he was.

93

94 Ms. Braun said that, if everyone is comfortable with it, the Chair will accept a motion.

95

96 **Ms. Bennett moved, second by Mr. Leathe, that the Planning Board approve the**
97 **Shoreland Zoning Permit Application for PB22-22, 360 River Road, with the**
98 **following findings of fact (in addition to other applicable findings of fact to be**
99 **included in the Notice of Decision):**

- 100 1. **All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and**
101 **Shoreland Zoning Permit Application have or will be met.**
102 2. **Based on the information presented by the applicant and in accordance with Sec.**
103 **44-44, the Planning Board finds that the proposed use:**
104 a. **Will maintain safe and healthful conditions;**
105 b. **Will not result in water pollution, erosion, or sedimentation to surface waters;**
106 c. **Will adequately provide for the disposal of all wastewater;**
107 d. **Will not have an adverse impact on spawning grounds, fish, aquatic life, bird,**
108 **or other wildlife habitat;**
109 e. **Will conserve shore cover and visual, as well as actual, points of access to**
110 **inland and coastal waters;**
111 f. **Will protect archaeological and historic resources as designated in the**
112 **comprehensive plan;**
113 g. **Will avoid problems associated with floodplain development and use; and**
114 h. **Is in conformance with the provisions of section 44-35, land use standards.**
115

116 **The approval includes the following conditions:**

- 117 1. **The property may be developed and used only in accordance with the plans,**
118 **documents, material submitted, and representations of the applicant made**
119 **to the Planning Board. All elements and features of the use as presented to**
120 **the Planning Board are conditions of approval and no changes in any of**
121 **those elements or features are permitted unless such changes are first**
122 **submitted to and approved by the Eliot Planning Board. Copies of approved**
123 **permits from Maine DEP, Army Corps of Engineers, if applicable, and State**
124 **shall be provided to the CEO before construction on this project may begin.**
125 2. **The permit is approved on the basis of information provided by the**
126 **applicant in the record regarding the ownership of the property and**
127 **boundary location. The applicant has the burden of ensuring that they have**
128 **the legal right to use the property and that they are measuring required**
129 **setbacks from the legal boundary lines of the lot. The approval of this**
130 **permit in no way relieves the applicant of this burden. Nor does this permit**
131 **approval constitute a resolution in favor of the applicant of any issues**
132 **regarding the property boundaries, ownership, or similar title issues. The**
133 **permit holder would be well-advised to resolve any such title problems**
134 **before expending money in reliance on this permit.**
135 3. **The applicant authorizes inspection of premises by the Code Enforcement**
136 **Officer during the term of the permit for the purposes of permit**
137 **compliance.**

138 **4. No later than 20 days after completion of the development, the applicant**
139 **shall provide to the Code Enforcement Officer post-construction**
140 **photographs of the shoreline vegetation and the developed site.**

141
142 **VOTE**
143 **4-0**
144 **Motion approved**
145

146 Ms. Braun said that the application stands approved and there is a 30-day period from
147 which the PB decision can be appealed by an aggrieved person or parties – move forward
148 but move forward cautiously.
149

150 **ITEM 8 –NEW BUSINESS**

151
152 **A. 857 Main Street (Map 10/Lot 2), PB23-02: Site Plan Amendment/Review and**
153 **Shoreland Zoning Permit Application – Boatyard Expansion – Sketch Plan Review**
154

155 **Received: January 25, 2023**
156 **1st Heard: March 7, 2023 (sketch/site plan review)**
157 **2nd Heard: _____, 2023**
158 **Public Hearing: _____, 2023**
159 **Site Walk: March 28, 2023**
160 **Approval: _____, 2023**
161

162 Mr. (Geoff) Aleva (P.E. Civil Consultants) and Tom Allen (owner, MGX II, LLC) were
163 present for this application.
164

165 Mr. Aleva said that we are here tonight for sketch plan to talk about our proposed desire
166 to expansion at the Kittery Point Yacht Yard, which is now known as Safe Harbor Kittery
167 Point. Same use, same expansion. This has been for marine use for boat maintenance and
168 storage for many, many years. This property started into commercial use back in the late
169 60’s when the high-level bridge was under construction. Then it was turned into Patten’s
170 Boat Yard for a while and a bunch of other uses. What we’re looking to talk about tonight
171 is the proposed expansion, what we’re allowed to do for an expansion, where we feel that
172 maybe this may not be necessarily a non-conforming use. Looking through some of the
173 old records that we have on file for this yacht yard when they came to get building
174 permits and approvals in the past for other expansions, the approval letters indicate a
175 conditional use but don’t indicate anything with respect to expansion of a non-
176 conforming use. So, I’m just curious on how that interplay with a non-conforming use
177 works into our proposal because it impacts some of the work that we’re trying to do. In
178 particular the work we’re trying to do, is to create new structures and the most part is to
179 cover existing gravel and paved areas where we’re doing work outside. What we want to
180 do is to be able to get this work under cover of a building for a couple of things. It allows
181 us to have more efficiency for maintenance and work. It reduces the noise on the adjacent
182 abutters. It allows the operations to keep people employed more throughout the year as
183 opposed to being seasonal. In weather, like today, working outside not a lot of work

184 happens. Whereas, if we can have it inside a building, then there's an opportunity for
185 that. I know that, in the package I gave, that there's a couple sketch plans and I can kind
186 of go through that. But, what I want to try to talk about is what the limitations are in our
187 proposed plan; that we've got a mix of wood buildings, small office structures, and steel
188 buildings that are out there. We're looking to remove some of the smaller structures to be
189 able to encompass that into our proposed addition, knowing that we're in the Village
190 Zone there is the allowance of a maximum of 20% of building footprint on the property.
191 That's where we would like to get to with our proposed addition. Working on the non-
192 conforming side of the ordinance, if it is considered a non-conforming use, then we're
193 only allowed 25% in a 10-year period. So, we could get our 25% now and then we'd have
194 to wait another 10 years to get that, and that limits what we would like to put under cover
195 for building on the property. I can go through that with my sketch plan; that I have a plan
196 here that we can work through that aspect of it.

197
198 Ms. Braun said that we will let Mr. Brubaker give an update on the non-conforming issue
199 before we go any further, if that's alright with you, Mr. Brubaker.

200
201 Mr. Brubaker clarified that we're talking about the non-conforming use.

202
203 Ms. Braun said yes; that that seems to be the issue.

204
205 Mr. Aleva agreed that that's one of the things we want to discuss because that's going to
206 lead us where we need to be when we come back to you folks with a detailed plan of
207 where we're at. It's kind of a new thing because some of this older information was just
208 brought to me and I haven't had a chance to share it with Mr. Brubaker regarding past
209 approvals. Just looking at one of the ones from 1992 there was an approval for a building,
210 and you would expect that it would indicate that there was an expansion of a non-
211 conforming use with the zoning ordinance but it doesn't say that. I think I also have
212 another one from 1998 when they applied for another building addition. They came
213 before the PB and they received a conditional use for that, as well, so I don't know how
214 that interplays with the past. This property had a past site plan approval. This would be an
215 amendment to that, whereas, those amendments in the past were never treated as non-
216 conforming uses and the zone hasn't change since at least 1971, when it was set up.

217
218 Mr. Brubaker said that, as Mr. Aleva mentioned, they are seeking an expansion of the
219 activity buildings and the test here is that (§45-192) "*a non-conforming use may be*
220 *expanded in an area of function by building horizontally or vertically, adding to the*
221 *volume of business or increasing the range of goods or services by not more than 25*
222 *percent over any ten-year period.*" This is an excerpt from the application (shown on the
223 screen). You can see the locus parcel, here, and as you can see here the Shoreland Zoning
224 is primarily general development. We don't have this almost at all in Eliot. There is this
225 parcel, the parcel adjacent to it, and the marina by Spinney Creek; that I think these are
226 the three properties that have it. It does allow for more flexibility of uses as well as more
227 flexibility in terms of other Shoreland Zoning performance standards, such as increased
228 allowed non-vegetative cover but you can see that it only extends 250 feet back from the
229 river. Most of the parcel is not in Shoreland Zoning and, therefore, what we're looking at

230 in terms of uses is the Village Zoning District, the base zoning. In the Village District,
231 both industrial uses and establishments and warehouse uses are not permitted. Therefore,
232 that's why I believe that, because the proposal is to expand the buildings outside of the
233 General Development District and within the base zoning district, this non-conforming
234 test would apply here for your review. So, they are entitled to that 25% expansion over a
235 10-year period. That's one of the things I think you will want to discuss, one of the keys
236 for this review. As Mr. Aleva mentioned, the lot coverage is 20% so building coverage
237 cannot exceed 1¼ acres or about 53,000 square feet. They are working within those
238 parameters but I do believe that a non-conforming use test applies. I realize that past
239 reviews may have done things differently but things have changed since then. For
240 instance, we don't even have provisions, anymore, for a conditional use permit as we did
241 in the past. So, Mr. Aleva is right. The zoning hasn't changed that much in terms of the
242 four zoning districts in decades but, with early zoning, there just used to be two zoning
243 districts. One was basically a buffer along Route 236 and, then, the rest of Town. So, the
244 zoning has changed a little bit but, nevertheless, I believe that most of the lot is just base
245 Village Zoning District.

246
247 Mr. Aleva said that if we look just at the numbers, now, currently there is about 32,000
248 square feet of building footprint on the property. 25% would allow us to build 8,000
249 square feet of new footprint area on the property. That doesn't get us close to the 20% for
250 the Village. We'd like to see if there's a way to, I guess, investigate more that non-
251 conforming use aspect of it because I believe the ordinance, even back in the 90's when
252 these other building expansions came before the PB, even though it was not site plan
253 review, that non-conforming aspect was still in the zoning, at that point. I don't know if
254 that has any precedence over what can be done, moving forward, with the same piece of
255 property under review. I don't know that answer.

256
257 Ms. Bennett said that I don't believe so. Decisions of prior Boards, whether or not they
258 would apply or adhere to the code, don't bind the current Board.

259
260 Mr. Aleva said that, if we look at that then we'd be under that provision of the non-
261 conforming expansion on that side to get to what we're looking for, for a building. As I
262 mentioned, we're going to demo some existing structures. So, with about 6,000 square
263 feet of those existing buildings we're going to take down so, when we re-construct, we'll
264 have the 8,000 based on the total that's there now plus that 6,000 that we're going to re-
265 configure onto that. I think if we look at where we would be, then, following the non-
266 conforming provisions would be roughly around a 12,000-square-foot building addition
267 to be placed on the property. Again, the locations we are looking at are over existing
268 gravel connecting to existing buildings to be able to move those operations. Showing the
269 large site plan he had with him, the ones that I'm shading in are buildings we are going to
270 tear down and re-work into expansion. 'These' buildings, because they are all wood-
271 framed, are all inefficient and would be removed; that want we want to do is add a new
272 structure that would come in 'here' to be able to encompass the existing work area that's
273 on the outside along the perimeter of the building 'here', get everything under cover, get
274 it a bit more enclosed, more organized on 'this' side, provide a noise buffer for the
275 residential uses that are up 'here' on this side, and get everything enclosed in 'here'. The

276 rest of the property has a lot of mix of old pavement and old gravel. Our intention is to
277 come in here and pave 'this' as part of our project. We're going to run a new water line in
278 'here' and sprinkle these buildings that aren't sprinkled for fire protection. We're also
279 going to work on some stormwater drainage as we run down through 'here'. The last part
280 of our process is that they do maintenance on some larger commercial vessels. 'This' is a
281 pretty steep slope as you come up from the water up to where the area is 'here'. We're
282 looking in this General Development area of the Shoreland Zone to open up and create an
283 area where we can work on and do maintenance to vessels that are too heavy to pull up
284 that hill; that we do work on some of the larger UNH research vessels, and things like
285 that. So, the other part of the project would be to work on expansions of that work area
286 down there in the Shoreland Zone and that's part of that permit on that side.

287
288 Ms. Braun asked how close you are to the Piscataqua River.

289
290 Mr. Aleva said that we have our limits. The river is right about 'here'. This is just the
291 general plan. We've updated this survey plan with some of our own information that
292 indicates access and we will have a lot more detail. This is just very general for our
293 sketch plan. We'll have those provisions on there on what we need to have and what
294 we'll need for DEP review. The DEP has been involved with the property in the past,
295 other past changes for stormwater, those kinds of revisions. We're going to be updating
296 that information and taking care of the permitting process we have down here. The work
297 that would be down 'here' is not in any of the coastal wetland, not in that area. As I look
298 at it, the closest would most likely be a PBR (permit-by-rule) for work adjacent to the
299 resource.

300
301 Mr. Leathe asked what kind of work you would be doing down there.

302
303 Mr. Aleva said that I have Tom Allen with Safe Harbors and he can kind of give a better
304 explanation of the kind of work that happens down there along the lower portion of the
305 property.

306
307 Mr. Allen said that I am the former owner of this property and now current operator
308 under Safe Harbor Kittery Point, LLC, as shown in the application. He asked to give a
309 little bit of background, because I came into the property in 2008. I acquired Patten's
310 Yacht Yard at that point in time. There were some facility challenges and some
311 investment challenges at that point. We had a significant setback not long after I acquired
312 it; that if you look at the records it had a significant fire. It was an opportunity for me to
313 re-think and get the bank to support a reinvestment in this property, long-term. My goal,
314 and my wife's goal, as she has been involved in the business with me and still is (current
315 business manager) was to make these properties long-term sustainable. Eliot only has one
316 working waterfront boat yard and it's at 857 Main Street. As part of my succession plan
317 more recently, it was finding the right, next successor that would keep these properties in
318 their current use. I researched and selected Safe Harbors and began conversations with
319 them a couple years ago. When they became a public real estate investment trust, that
320 confirmed my interest because it would be very punitive for them to make the properties
321 anything other than what they are. In addition to that, I was looking for a successor that

322 would make the investment in what I couldn't make in these boat yards for the future.
323 The plan that we originally outlined that you see on Mr. Aleva's plan, has built-in
324 efficiencies in it at the scale that was illustrated. If that scale is reduced, while I don't
325 make the final decision, I can only tell you that I don't know that my parent company,
326 Safe Harbors, would be interested. This plan that is being promoted is something that I
327 would have done had I could have come to you over the past six or seven years. One
328 thing you didn't mention, not only is it covering, if you drive around the property, an
329 existing approximately 35 boats where we're working, it provides sustainability for a
330 year-round employment force and also safety of the families that are employed there. So,
331 you may not know this but Eliot is the mothership for Safe Harbor Kittery Point. The
332 reason it's called Kittery Point, and always was since 2007 when it was acquired, is the
333 original company started at 48 Bowen Road, which was formerly Dion's Yacht Yard. I
334 guess my question to the Town Planner and PB is that I know what the definitions are of
335 is there a change of use for an expansion. Simply, what we are doing is trying to put a
336 cover over our existing work, our existing fleet, which we feel provided benefits of not
337 only safety and continued employment year-round for our employees but also, from a
338 neighborhood standpoint, we quite things down in terms of working outside. Thank you
339 for listening to me. Regarding the work we do specifically the area down by the
340 waterfront, the problem there is we don't have enough room to navigate efficiently when
341 we're hauling boats out on our 50-ton hydraulic trailer. We have a contract with New
342 Hampshire Marine Resources and DES (DDS?). We service all of the Portsmouth Naval
343 Shipyard Safe Boats. We have marine response vessels under contract for the Portsmouth
344 Naval Shipyard and we take care of a good portion of the commercial fleet, including the
345 UNH research vessels and a number of commercial lobstermen. These boats tend to be
346 bigger and, when we put one or two off to the side, it makes it difficult to maneuver with
347 a third boat down there. All we're trying to do is take that lower landing area and carve a
348 bit into the hill to make it more level. That is about a 90° slope that starts after a very
349 small landing area right off the pier. So, as far as the work that's going to be done down
350 there, nothing more than what is currently done there; that that's power-washing, winter
351 boat storage. On bigger boats, our services would extend to do some mechanical work out
352 there, some bottom-painting, but it's pretty limited. We try to get most of our work where
353 we can under cover and that's the main goal of what our initial request was in terms of
354 the building footprint – to get more of that under cover. Primary objective down there is
355 just some additional lay-down area to make it a little more navigable on land when we get
356 the boats out of the water.

357
358 Mr. Leathe said that I'm thinking about the outside work that you do now and you're
359 going to try to cover that, or most of it. Would that still mean you will have a fair amount
360 of outside work or are you trying to cover it all within buildings.

361
362 Mr. Allen said that we're not trying to cover it all. We'll still have outside storage of
363 boats but, the way our customer base works, we have customers that are full service and
364 we have customers that just like to store their boat there and know that, if they need
365 something that they can't do, we have them covered. The boats that you would end up
366 seeing outside are sailboats that prefer to store mast-up. The power boats with full service

367 sailboats would be unstopped (unstacked?) and put under cover and those customers
368 predominately, year after year, are the ones that keep our crew busy in the winter months.

369
370 Mr. Leathe asked how many employees you have.

371
372 Mr. Allen said twenty-one right now. In the summertime, we will increase that about
373 three. What has happened, because it's very difficult in the skill trades to find people
374 right now, we have a number of subcontractors we have strong relationships with. So, it's
375 a little misleading when you ask me how many our business provides for. It's more than
376 just our employees.

377
378 Mr. Leathe asked, with the new space, will you see an increase in business or is it going
379 to be about the same.

380
381 Mr. Allen said that I think two things would happen. We'd have the capacity to do more
382 business year-round. So, when you haul out a boat, for example, what we have to do right
383 now is we have to decommission it outside, we have to use non-tox in all of the systems.
384 What we're talking about with this building and this investment is having back-up
385 generators, we're looking at solar; that we're working with a design team out of
386 headquarters. We're looking at re-using gray water. They have a sustainability plan, by
387 the way, that you can look up. It's public. It's a new concept in the industry that we're
388 taking boats out of the water prior to freezing, prior to the winter, and putting them
389 inside. So, we take the craziness of the cycle out of it. We can winterize, or we can
390 service those boats, in a less intensive way and at our own time versus a lot of overtime.
391 So, to answer your question, do I believe it will increase revenues, yes. We have the
392 capacity to have more boats inside and do more work. And will we increase the number
393 of employees that, hopefully, we can attract; that I think that's reasonable But what it's
394 going to decrease is the amount of overtime that occurs, which is really inefficient.

395
396 Mr. Leathe said that, with boat yards, you probably use a fair amount of chemicals and
397 various materials that you don't necessarily want to have all over the ground. So, when I
398 read through this the first time, I was thinking that, by moving inside, you might be able
399 to control that better than you can currently.

400
401 Mr. Allen said absolutely. It's one of the reasons I would have done this previously, if I
402 could. It's very hard to control when you're in an outside environment. In an inside
403 environment, whether you're sanding or grinding; anti-fouling paints have metals in them
404 and you can't capture it all outside. We try in tent boats. That's a big glacial sand dune,
405 by the way, in most of Eliot along the river bed. So that all has the potential to go into the
406 ground. So, from that standpoint, if we concentrate the majority of our work inside, there
407 is less likelihood for that to happen. This boat yard has been registered as a Clean Marina
408 at the highest level and it is an acknowledgement that it is nationally recognized by the
409 EPA since 2011. That's one of the reasons we changed the stormwater and invested in it
410 when we did. Safe Harbor, they get it, as a company that has now taken the ownership.
411 Environmnet and preserving our resources is very important to them. I just wanted to
412 mention that. It's one of the things we've been very proud of at this facility.

413
414 Mr. Leathe said that when I look at this diagram, which is very small, the pink rectangle
415 is all new metal. That's a new metal building.

416
417 Mr. Aleva said that the idea, here, is that there is an existing wooden building that's
418 attached to the steel building, This would go away and, ideally, be replaced with office
419 space in the new steel building, here, and then with this addition we connect to we would
420 ideally connect to this other steel building, so this whole area could be under cover.

421
422 Mr. Leathe asked if it was all open right now.

423
424 Mr. Aleva said that it's open now. It's all on gravel/pavement and it's the existing
425 operation. This leads to another question. This is not an expansion of the use, itself.
426 We're expanding the building. Is that 25% for buildings or is that for use. Technically,
427 we're not expanding the use. We want to expand the buildings.

428
429 Mr. Brubaker said that the language is "expanded in area or function by building
430 horizontally or vertically" but the key there is "expanded in area or function". It doesn't
431 talk about buildings in the first part of that sentence. So, I think that one way to interpret
432 that is that an activity that's already occurring outside is the use that's occurring and, if
433 you just enclose that in a new building, or building expansion, for that specific area
434 there's been no expansion of area because building horizontally or vertically is a
435 qualifying part of that sentence. One interpretation of what that means is that that only
436 applies to a case where the building expansion is the mechanism for increasing the area
437 of a non-conforming use rather than a situation where the use is already occurring and
438 they are just putting a building over it. That doesn't mean there are not other reasonable
439 interpretations but I think that might be the most reasonable one. So, in summary, it does
440 seem reasonable that, if they are putting a building on an area that's already being used
441 for an activity, that that would not be an expansion of a non-conforming use.

442
443 Ms. O'Connor said that the map that you have, that new area, that is the 25% increase or
444 the desired area.

445
446 Mr. Aleva said that this would be the desired area to follow the maximum allowable in
447 the Village, which would be 20%. As Mr. Brubaker mentioned, the area that is used for
448 the use is basically the whole property and I think you see it there. And if we look at
449 where ideally we'd like to be, we'd ideally like to be at the 20% building coverage in the
450 Village Zone.

451
452 Mr. Leathe said that you have the big rectangular building (pink), there, and in the front
453 of it or this side of it, you have the green building (smaller rectangle attached to the larger
454 rectangle towards the waterfront).

455
456 Mr. Aleva said that that is an existing steel building that was built in 2012, or earlier, I
457 want to say 2008. That steel building attaches to an original wood building that we
458 wanted to get rid of (in the pink area).

459
460 Mr. Allen said, just to be clear, that steel building replaced the wood building.

461
462 Mr. Leathe said that, then, access and egress from the site with that.

463
464 Mr. Aleva said that there are big garage doors on the end, here, garage doors on the side,
465 and a couple smaller doors on 'this' edge.

466
467 Mr. Leathe said that, from the edge of that building to the property line down to the east,
468 how far is that.

469
470 Mr. Aleva said that, based on my finger scale, it's about 70 feet from 'here' to the
471 property line on this side. And again, we have a 20-foot side setback that we need to be
472 concerned with. Then the idea here is, for control, we have stormwater that runs down
473 this steep slope that's down on 'this' side and this is all gravel and broken up pavement.
474 The idea is, as part of housekeeping to get rid of the dust and clean this up, to work on
475 paving and cleaning that area to clean up the site.

476
477 Mr. Leathe asked if there are two alternative designs, here, that you were talking about in
478 the write-up.

479
480 Mr. Aleva said that I really want to talk about with the PB tonight regarding the sketch
481 plan was does that non-conforming ordinance mean we are limited to what the building
482 expansions can be. It sounds like it doesn't. So, what we would like to do when we come
483 back to the PB is to show a plan that meets the Village section for building coverage
484 show our intent, how that fits on 'here'. Our ideal is to get as much work area under
485 cover as we can, as allowed by the ordinance. By going to the 20%, that's more than, if it
486 were strictly limited to building and non-conforming.

487
488 Ms. Bennett said that I would like to see some sort of layout, or schematic, of how the
489 property is being used now. Can you demonstrate to us where you are doing this outdoor
490 work now. No, I mean for our consideration for the future, not just a general talk tonight.
491 When our Planner had an aerial photo, I was spending a lot of time looking at that to see
492 where you were doing your outdoor winter storage of boats, how much of the area that is
493 currently gravel that you now want to cover. Because I think that that is going to be the
494 germane question for us when we discuss this expansion of a non-conforming area of
495 function, horizontal or vertical. Also have the 20% coverage in the Village District.

496
497 Mr. Leathe said that I think that's a perfect segway for requesting a site walk.

498
499 Mr. Aleva said that it would be great to have that because we can see the areas now. We
500 can explain, for the wintertime, a lot of those work areas are used for boat storage and we
501 can tell you, for the summertime, where all these operations work, and how we're
502 looking to move and make it more efficient.

503
504 A date was discussed and tentatively scheduled for March 28 at 3 PM.

505 **ITEM 9 – OLD BUSINESS**

506

507

A. June 2023 Ordinance Amendments and Growth Permit Allocation.

508

509

1. Housing, Tiny Homes (LD2023 & LD1530)

510

2. Marijuana Performance Standards & Licensing

511

3. Mobile Vendors

512

4. Day Nurseries

513

5. Non-Stormwater Discharges

514

6. Growth Permits

515

516

Mr. Brubaker said that for all these ordinances, at the end, if you feel ready, I would like a motion to set a public hearing for the 21st.

517

518

HOUSING:

519

520

521

Mr. Brubaker said that we are responding to LD1530 and LD2003. A lot we've already talked about. We're focusing here about changing the code for 'tiny homes', provisions regulating tiny homes. You can see that in the new section 45-137. The land use table is updated for tiny homes in both base zoning and shoreland. The dimensional standards table §45-405 is re-formatted a little bit, things moved around. But the substantive changes to add tiny homes to the table essentially specifies that there is no minimum dwelling unit size. Remember that Mr. Alleva has commented in the past and is on Zoom. Remember that the definition we will be putting in is the State definition, which is essentially 'tiny homes on wheels'. So, they would need registration and title, like a motor vehicle, could not be more than 400 square feet in size. They can be either a principle structure on a lot or an accessory structure. The rules that I've written here say not both. If you have a tiny home as a principal structure, you can't be a short-term rental. The ADU changes we've already talked about a lot. The one I wanted to highlight, and both I and Ms. Bennett attended the DECD Zoom public hearing about LD2003, that we were wondering about lot line setbacks among other things. In that section, we are generally allowing detached ADUs to only need accessory structure setbacks. If there's a detached ADU that's already permitted, it shall continue to meet principal setbacks, except for whatever reason it was permitted for lesser setbacks. This was my best attempt to try to interpret the draft rule-making. I may not be entirely right but I think, in general, the rule-making is hinting at detached ADUs only to meet accessory setbacks. I did shop-talk with Chief Muzeroll and he didn't think there would need to be any specific fire department access rules in our land use regulations. There are plenty of rules in the Life Safety Code, the building code, that would speak to that and didn't feel there needed to be anything extra.

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Ms. Bennett said that I think it looks great. But, there is just one little piece, a residual in the code that needs to be struck to conform with LD2003. It's just above where you added the section for the new lot line setback (page 27). Subsection (c) of 14 to get us conforming to LD2003, which dictates that we shall allow ADUs whether they're 20% of our single-family homes, or not. We don't get to choose.

551
552 Ms. Braun asked if there were any other comments from the PB. There were not.
553

554 Mr. **Alleva** said that there are a couple of points that might be worth just fine-tuning. The
555 way around it is to say either tiny homes on wheels are not ADUs or, if they are, they
556 don't have the same minimum and you've done that. I didn't see that in the dimensional
557 standards and I didn't know if that was in the document or maybe I just missed it. What is
558 in there is saying that tiny homes have to adhere to §45-459 that actually does say 190
559 square feet minimum for ADUs. So, somehow, there's just a disconnect between those
560 two issues. So, just to clarify it, maybe, in that §45-459. Somehow, just to get it to
561 aligned with what you said about the dimensional standards being required for the tiny
562 home. The other question that could come up and I just mention, and some folks might
563 not know that I've gotten into the weeds on this, is a tiny house definition. The Maine
564 Uniform Building Energy Codes (MUEC) defined in their amendments in 2018 and that
565 just says that it's a dwelling unit less than 400 square feet. The question could come up.
566 What if somebody had a tiny home on wheels but it's not ANSI-certified. In most towns
567 that have already been addressing this in Maine, and in other states, they just have to
568 meet the building code. If you have an ANSI-certified or NFPA-certified, which is kind
569 of like a mobile home or RV, you don't have to meet those same standards. So, that's
570 kind of the work-around, to acknowledge both definitions. Because what would you say
571 if somebody has a tiny home on wheels, as many tiny homes on wheels don't meet the
572 definition you included. Actually, the one I am getting will meet that definition. It just
573 raises the issue that somebody had because a lot of people that build their own tiny
574 homes, they might build them to the International Building Code s and not necessarily to
575 ANSI. They are very similar but there could be some things that, if you get in the weeds.
576 You just might want to look at that issue of how would you address one that doesn't meet
577 the definition yet is on wheels as opposed to being on a foundation then it's really just a
578 small house. Just wanted to raise that. That just seems to be the only glitch that I could
579 see. Everything else just sounds like a good direction for us.

580
581 Ms. Braun said thank you.
582

583 Mr. Brubaker said that I am still waiting comments from our CEO on anything else she
584 might need in these rules. So, you may see some minor tweaks there. I believe State law
585 mentions 190 square-foot minimum for ADUs and, so, if you have a tiny home, yes
586 there's no minimum but, if you want to bring that tiny home to your property, install it on
587 your property, and make it a permanent ADU, it would need to be 190 square feet. Tiny
588 homes can be principal structures or accessory structures. But, if they are accessory
589 dwelling units, because of State law, they would need to meet that 190 square-foot
590 threshold. There is a separate set of provisions for tiny homes that, as I understand it,
591 more stick-built rather than being trailers. Basically, vehicles with motor power. But
592 those would just go through the same building code requirements as anything.

593
594 Mr. Alleva said that some of what you said, Mr. Brubaker, I was just assuming that, if a
595 tiny home is on wheels, yet it's hooked into septic, water, and all that, and it meets the
596 definition of ANSI-certified, it can be less than 190 square feet.

597
598 Mr. Brubaker said that it couldn't be if it was intended to be a permanent ADU because it
599 would have to be 190 square feet.

600
601 Mr. Alleva asked if it would then be something else. The other way around it is saying
602 that the tiny home on wheels, the way some towns have dealt with it, it's not an ADU.
603 It's a dwelling unit but it's not an ADU, it's a vehicle. But it can be lived in year-round
604 because that's kind of what I'm planning on. So, to avoid that conflict, I'm meeting the
605 LD1530 legal requirement.

606
607 Mr. Brubaker said that we're kind of getting bounced around by state laws. I think we're
608 in a pretty good spot. I'll have to make some tweaks and present them to you on the 21st.

609
610 Mr. Alleva said to realize the last comment is that the Department of Consumer and
611 Economic Development said they are willing to provide some conversation and guidance
612 around this because, when LD2003 was developed, there was no thought about tiny
613 homes being tiny homes on wheels as being restricted by that statute. I think it's
614 important to get the LD1530 and LD2003 to be in compliance, which either means don't
615 require tiny homes on wheels to have a minimum of 190 or say they're not technically;
616 they're dwelling units but nowhere in the definition does it say that they are accessory
617 dwelling units. They say they're dwelling units. There are two ways you can go and
618 people in different towns have gone both ways. But you don't want to go a way that sets
619 up the thing I pointed out. The last time this was discussed sets up a conflict where you're
620 abiding by LD2003 and you're making tiny homes on wheels that are legally defined not
621 to be able to be dwelling units on an individual house lot, which is what LD1530 says. I
622 would like to feel that Eliot is being tiny home-friendly to people like me and my home
623 that will be arriving sometime in May before the vote comes to be. So, I'll wait to see the
624 next draft but I think it needs a little tweaking, yet, still.

625
626 Ms. Braun asked if we didn't have conflicting laws that didn't really mesh, yet.

627
628 Mr. Brubaker agreed that we do and I'd ask the folks in Augusta to figure out a way. I
629 think we're doing good to try to thread the needle, here, and accommodate all of these
630 State mandates.

631
632 Ms. Bennett asked, just for my own edification, how large is this tiny home in square
633 footage that you have purchased.

634
635 Mr. Alleva said that it's just a standard size tiny home. It's an 8'X20' and is ANSI and
636 NFPA- certified. There are many tiny homes that are exactly that size that are built in the
637 State of Maine and are certified. One of the other issues that comes up, if you want to get
638 into the weeds a little but more, is that tiny homes are generally considered personal
639 property and not real estate, unless they are affixed to a permanent foundation. So, a tiny
640 home that might be put on blocks, you could even have hurricane anchors but, if it's on
641 wheels, it's certified by the Bureau of Motor Vehicles as personal property, not as real
642 estate, which is part of the home structures on a property. So that's another technical

643 distinction. But there isn't necessarily a conflict in the two laws. The conflict is, as soon
644 as you say that a tiny home on wheels, if it meets all the definition requirements from the
645 2021 law, which pre-dated LD2003, that once you say that a tiny home must be an ADU,
646 you need to give an exception to that or say it's a dwelling unit but don't say it's an
647 ADU. There's no reason you have to say it's an ADU. You can say that an ADU are only
648 things that are permanently affixed to a property. That's a very important issue. Maybe
649 no so much in Eliot but across the State of Maine, if that was done, you would have many
650 people as well as the Tiny Homes of Maine that are building; that they have a backlog of
651 100 orders because it's sort of a new affordable housing for many people in the State of
652 Maine. They build one that is exactly the size that I have. It's very important to me,
653 personally, and to, I think, to the whole issue of affordable housing, of which tiny homes
654 is one small answer.

655
656 Ms. Bennett said that this is useful information and we'll take it under advisement.

657
658 Mr. Alleva said that I did provide written materials and I can provide more, as well.
659 Some other ordinances where people have either not considered tiny homes on wheels
660 ADUs or where they actually include the two different definitions that I mentioned, one
661 for tiny houses on fixed structures and one for tiny homes on wheels. It's an important
662 distinction. It would be nice to get it rectified before we go to the public hearing when I
663 will speak again if we're not able to navigate this. I think we can navigate it.

664
665 Ms. Bennett said that I agree. Thank you very much.

666
667 **MARIJUANA:**

668
669 Ms. Braun said that this is for marijuana performance standards and licensing.

670
671 Mr. Brubaker said that a lot of these changes should be from the peer review but there's a
672 lot of small changes. Regarding the licensing cap, the changes to the overall maximums
673 include a reduction by one, to start with, to the number of allowed retail. So, that would
674 be marijuana stores or medical marijuana caregiver retail stores or dispensaries. The same
675 amount of cultivation facilities, as is currently in our code, and then an increase of one in
676 manufacturing. The cap has been re-organized a little bit in terms of groups to be retail,
677 cultivation, and manufacturing and what is grouped together is the adult and medical side
678 of things. We do respond to input we received previously clarifying that, if a marijuana
679 establishment is sold or ownership changes, that does not constitute a voluntary
680 termination of a license. The new owner would get a new license but they would
681 essentially have a 'safe harbor' to obtain a new license. Recall that there is an automatic
682 reduction mechanism built in with that. We set the cap at a certain amount but, if licenses
683 are revoked or expire or are voluntarily terminated, the cap automatically reduces by one.

684
685 Ms. O'Connor asked what the background is for having the cap go down by one if
686 someone voluntarily revokes the licensing. What is the reason for having the cap go
687 down.

688

689 Mr. Brubaker said that the big picture here is that the community has strongly felt, and
690 the PB and SB, that these uses needed a cap. So, what some other communities have done
691 is set the cap lower than the number of existing marijuana establishments and we didn't
692 want to do that because of certain legal liability. The cap is that, if other circumstances
693 compel a reduction in the number of establishments, that our number of licenses goes
694 down so that we can actually reduce the caps without entering into a legal gray area
695 where we would be potentially disallowing somebody who is already in operation.

696
697 Ms. O'Connor said that there's a place where it talks about if the license is not renewed,
698 if it expires, does that mean the cap goes down by one.

699
700 Mr. Brubaker said yes.

701
702 Ms. O'Connor said that, then, there is also language that says that someone can re-apply.
703 So, if the license expires, the cap goes down by one, let's just assume there is no longer
704 any open spots; that if the person goes to renew, there would be no room for them to
705 renew. Is that the logic.

706
707 Mr. Brubaker said yes, with the expectation that all licensees should be current with their
708 licenses. I think there might be some room for interpretation if they applied to renew and
709 they were scheduled for the SB Public Hearing there wouldn't be a license revocation
710 because they would be in process. We do give a little more of a grace period for the
711 medical marijuana establishments to get a license. Recall that we didn't write Chapter 11
712 for medical marijuana so we're trying to get them on the same playing field as the adult
713 use licenses. Another thing is that State law (LD1827) says that we need to allow home
714 delivery and curbside pick-up of adult use marijuana from marijuana stores. So, there are
715 provisions in here to update the code to allow for that and also regulate it. You will see
716 that there are some additional site plan standards for that and some additional licensing
717 standards. Those applying for that would need to clearly show how they will do that on
718 their site plan and would have to do a traffic impact assessment (TIA). We can use Home
719 Rule to properly regulate that use. Going to page 13-14, we are getting rid of the sign
720 content regulation that, according to our legal counsel, doesn't pass 1st Amendment
721 muster. I do have prepared language that I feel tries to meet the (key to) Supreme Court
722 case Reed v Gilbert threshold that allows municipalities to regulate sign content. There
723 are some specific tests that the Supreme Court put in there. I decided to put it aside and,
724 instead, just delete this provision but, if there's an interest in the PB to try to do this again
725 then I can re-form this language. Just let me know.

726
727 Ms. Braun said maybe at a later date. Not now.

728
729 Mr. Brubaker said that you can see some of the changes for home delivery/curbside pick-
730 up. Security cameras need to show all curbside pick-up areas, lighting needs to illuminate
731 it, ID checks need to happen. Another thing of importance to note, here, is that we are
732 making two changes to the 500-foot rule. One is that we are adding cultivation facilities
733 to that rule. Secondly, last time around there was a request to have the ability to change
734 from a medical marijuana retail to an adult use retail. So, that's included in there, as well,

735 including if a medical retail has gotten a variance in the past, then that would be allowed
736 to change to a different form of marijuana retail. Most marijuana establishments need to
737 get full site plan review but this provision is introducing some potential scenarios where a
738 marijuana establishment could seek a minor revision from the PB and would only be for
739 applications that don't propose and increase to the total gross floor area devoted to
740 marijuana use and doesn't increase trip generation. Finally, just updating the parking
741 requirements to show curbside pick-up or home delivery areas.

742

743 **MOBILE VENDORS:**

744

745 Mr. Brubaker said that this is a request we're talked about before to add as an allowed use
746 in the C/I District and Village District under site plan review and set up business license
747 provisions. In summary, we define what a mobile vendor means exempting agricultural
748 uses, so, farm stands, farm tables. We also try to make a distinction between temporary
749 mobile vendors and more permanent ones so, if you want to establish a food truck court,
750 that's permanent. If you are a kid's birthday party, with one or two trucks for the day, we
751 don't want to get in the business of licensing or regulating that, except for in
752 extraordinary circumstances.

753

754 Ms. O'Connor asked to go back to the site plan review. That's just for the permanent
755 mobile vendors.

756

757 Mr. Brubaker said yes, that I need to clarify that language.

758

759 Ms. O'Connor said that, if it's mobile, it would be in different places and you would have
760 to do a site plan review for every location. That was my question.

761

762 Mr. Brubaker said that that is an excellent point and I intend to have some clarifying
763 language in there. My intention was that it would only essentially be for a kind of a
764 permanent hosting of a mobile vendor as opposed to one business having a mobile vendor
765 for one day for an event, or something like that.

766

767 Ms. O'Connor said, as an example, someone has a food truck and they are a permanent
768 food truck operator. They go from location to location. The first weekend of the month,
769 they are set up in one place. The second weekend of the month they are set up in another
770 place. Is that allowed or not allowed. That's my experience with food trucks. It's the
771 same guy with the same food but he shows up at different locations in accordance with
772 like a different vendor or host.

773

774 Ms. Bennett said that the congress of that is that, in Kittery, there is a permanent food
775 truck court and then, on Route 1 in York, there's a seasonal chicken place. So I think
776 those are more making that distinction between what you just described, I think, would
777 fall under the definition of mobile vendor, like a temporary mobile vendor.

778

779 Ms. O'Connor said that my question there then is that there is a limitation that it can only
780 be 12 days a year. So, to me that's very limiting. It seems like we're trying to encourage

781 this as a business. This seems like a growing business opportunity for entrepreneurs, so,
782 there's value to that. If we are limiting it to say the scenario I described would fall under
783 temporary, then they can only do it really limited – 3 days in a row, at all, or once a
784 month. That seems super narrow to me.

785
786 Mr. Brubaker said that that's a policy decision. You can weigh in on that. I put 12 in
787 there just as a starting point. The idea is that at some level, you're a temporary vendor
788 and don't need to get licensed and the Town doesn't regulate except in extraordinary
789 circumstances. The next level is you are a permanent mobile vendor and let's say you
790 move around, you need get licensed by the Town. Then, in a separate but related silo,
791 there is the PB's approval. The PB's approval, because the SB would be the licensing
792 authority, the way I envision it would be you want your property to be activated as a
793 mobile vendor hosting site. If you host a mobile vendor every once in a while, you
794 wouldn't necessarily have to go to the PB for approval but your mobile vendor might
795 need to get a license from the Town.

796
797 Ms. O'Connor said that York prohibits it on town land but it's okay on private property. I
798 didn't pick up that distinction in this document. Is that correct.

799
800 Mr. Brubaker said that I hadn't thought of that.

801
802 There was discussion regarding pros and cons of allowing this use on Town property.
803 Examples given were Eliot Festival Day, school-sponsored events, etc.

804
805 Ms. O'Connor said that I was thinking that it would be allowable on Town land, with
806 permits and licenses, etc. but it shouldn't be prohibited.

807
808 Mr. Brubaker said that I didn't write that prohibition. The only one I had in there was that
809 mobile vendors cannot be within 250 feet of a marijuana establishment.

810
811 Ms. Bennett asked if there could be a mobile vendor of marijuana. We have it written that
812 you can sell non-food products.

813
814 Ms. Braun asked if that was allowed under State law.

815
816 Mr. Brubaker said that I don't believe so.

817
818 Ms. Bennett asked, if you put a bunch of edibles into a food truck and you take it to
819 private property, is that home delivery.

820
821 Mr. Brubaker said that that is a good question. I think that, if someone wanted to set up a
822 mobile vendor to sell marijuana products, they would be prohibited from doing so.
823 Certainly, within the non-C/I Zoning District. If they essentially said that they have a
824 truck that they are going to call home delivery, that it's going to be based on this bricks-
825 and-mortar store and it's going to drive to other places, it couldn't set up to sell marijuana
826 products because, as I understand it, the State rules say that the home delivery service has

827 to have a sales delivery manifest. So, they have to record exactly where they're delivering
828 it and that they checked ID to make sure the person is 21 years of age.

829
830 Ms. O'Connor said that the payment had to have taken place before the delivery and then
831 the delivery happens after that; that the delivery includes the checking of the age.

832
833 Mr. Brubaker said that I think so, and they have to record how much – if the delivery
834 didn't happen for some reason, if the delivery was in a different amount. So, I can see
835 how a mobile vendor for marijuana would not be allowed. This creation of Chapter 5 is
836 like a toe in the water of a business licensing program that the Town has asked me to
837 create. I have gotten Attorney Saucier's input on Chapter 5 and he had only minor
838 comments and you will see those on the 21st.

839
840 **DAY NURSERIES:**

841
842 Mr. Brubaker said that we are removing 'day nursery' and adding 'childcare facility',
843 which includes 'childcare center', 'small childcare facility', 'nursery school'. Those are
844 the three types of childcare facilities. Then we have family childcare providers, which
845 would replace home business day nursery. We are also adding definitions and all those
846 definitions sync with State law. We are syncing with State law on private and public
847 school definitions. We are also adding a new definition that's not in State law that's
848 called 'outdoor education program', which would be a 'by right' use in all districts. That
849 would be outdoor education classes for kids where there is no daycare provided and it's
850 more limited in duration. Additional definitions include 'youth camp', 'adult daycare'.
851 There are some parking changes.

852
853 **STORMWATER:**

854
855 There was no discussion on this.

856
857 **GROWTH PERMITS:**

858
859 Mr. Brubaker said that I have nothing to present to you tonight but you will see that on
860 the 21st.

861
862 Ms. Braun said that we need a motion for all these to go to public hearing.

863
864 **Ms. Bennett moved, second by Ms. O'Connor, that the Planning Board schedule a**
865 **public hearing for March 21, 2023 to address proposed ordinance amendments and**
866 **growth permit allocation. The ordinance amendments proposed relate to 1) housing**
867 **& tiny homes, 2) marijuana performance standards & licensing, 3) mobile vendors,**
868 **4) day nurseries, 5) non-stormwater discharges, and the growth permit allocation.**

869 **VOTE**
870 **4-0**
871 **Motion approved**

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B. 771 Main Street – Demolition Delay Ordinance (as time allows).

Mr. (Michael) Sudak, PE, and Kris Glidden were present on Zoom.

Mr. Sudak said that we are back tonight to hopefully for an advisory opinion. This is for the demolition delay ordinance for the Clover Farm barn we discussed at the last PB meeting. Since then, Mr. Glidden reached out to Rosanne Adams (Eliot Historical Society - EHS) and she put him in contact with a Mr. Jason Oulette of Goodwin Road (barn re-location). As I understand, the two of them had a visit on-site. They worked out a contract, which was signed yesterday. I forwarded it to Mr. Brubaker. It is my understanding that that contract is agreeable to the EHS. I'm here to answer any questions you may have but we're hoping to waive the remainder of the delay period so Mr. Glidden and Mr. Oulette can get to work out there.

Ms. Bruan said that the contract says it is only for the older and larger sections of the building located closest to Main Street and the other two sections are going to remain untouched. What happens to the other two sections after.

Mr. Sudak said that it's my understanding, and I brought this up the last time I was in front of you, that the older section closest to Main Street is, I believe, the only section that has been identified as older than 100 years and, therefore, subject to the demolition delay. I believe all of them intend to be removed but, really, the delay is only for this oldest section, which is the part of the barn that has been of some interest to the EHS to be reclaimed and retained elsewhere in Town.

Ms. Bennett said that I was curious that Mr. Oulette is willing to do it for free. It seems like a lot of work for no remuneration.

Mr. Glidden said that a lot of times, when you have a barn like this, you put it out there and people come in the other direction to acquire it and they want to pay for the beams, the structure, the flooring, etc. In my particular situation, I'm not looking to make anything and get anything out of it. It's just to make everybody happy and move on.

Mr. Leathe asked if there was an estimate of how long it would take.

Mr. Glidden said that we put in the contract that we will try to have it done within 30 days.

Ms. Braun said that my assumption is that we are here to recommend to the SB that we take away the 90-day delay, Is that accurate.

Mr. Brubaker said yes.

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Ms. Bennett moved, second by Mr. Leathe, that the Planning Board advise that the Demolition Delay period of 90 days for the Clover Farm Barn be lessened or waived, provided that the current Demolition permit is updated or replaced to reflect the re-location and re-construction of the older portion of the barn in Eliot.

**VOTE
4-0
Motion approved**

ITEM 10 – OTHER BUSINESS/CORRESPONDENCE

A. Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town Planner, Board Members.

Ms. Bennett said that the only thing I would jump in and say that Ms. O’Connor is not on the Comprehensive Plan and we would welcome you to join in. Every member of the PB is asked to join one of the subcommittees on the Comprehensive Plan. We are having a public input session on Wednesday, March 22nd at the Regatta Room. The public input session starts at 3PM until 6:30PM. We’re hoping to get members of the public to come in, look at some visioning boards, and get their pulse on what they’d like to see in our Comprehensive Plan. Then the full committee will be meeting from 6:30PM to 8PM at the Regatta Room.

There was discussion regarding the survey, inventory progress, and the youth survey.

ITEM 11 – SET AGENDA AND DATE FOR NEXT MEETING

The next regular Planning Board Meeting is scheduled for March 21, 2023 at 7PM.

ITEM 13 – ADJOURN

The meeting adjourned at 7:56 PM.

Suzanne O’Connor, Secretary
Date approved: _____

Respectfully submitted,
Ellen Lemire, Recording Secretary