

ITEM 1 - ROLL CALL

Present: Dennis Lentz - Chairman, Ed Cieleszko, Christine Bennett, and Carmela Braun.

Also Present: Doug Greene, Planner.

Absent: Melissa Horner, (excused), Casey Snyder – Alternate, (excused).

Voting members: Dennis Lentz, Ed Cieleszko, Christine Bennett, and Carmela Braun.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION

There was no public input.

ITEM 5 – REVIEW AND APPROVE MINUTES

Mr. Cieleszko moved, second by Ms. Bennett, to approve the minutes of April 2, 2019, as written.

VOTE

4-0

Motion approved

NOTICE(S) OF DECISION

PB19-2 Medical Marijuana Dispensary

Mr. Cieleszko moved, second by Ms. Bennett, that the Planning Board accept the Notice of Decision for Case #PB19-2, Amended Site Plan, from April 2, 2019.

DISCUSSION

Ms. Bennett said that she wanted clarification on how we phrased the decision; that her recollection was that we moved to approve the application and then it failed to pass; that it wasn't a vote to deny the application.

Ms. Lemire said yes; that there was no second so it is a denial.

Ms. Bennett said, so, it was in reverse because we did not vote to approve and, so, it was a denial.

The PB agreed.

Ms. Bennett said that there was a question of the waiver.

Ms. Lemire said that she didn't know if the PB wanted to include that as a Finding of Fact.

Mr. Cieleuszko said that we did discuss it and we just said that the applicant needed to go to the Board of Appeals (BOA); that we didn't base it on the waiver issue.

Ms. Lemire agreed; that the PB decision was based on §33-198(c).

Mr. Cieleuszko said that the waiver issue is in Chapter 45 and is that the authority is not granted to us, it is granted to the BOA. In discussing denials, he said that it might be better, when we know it's not going to pass, if we have the motion to pass it (according to Robert's Rules), get the second, then have discussion where we talk about the fact that it won't pass because of 'this', then we all fail it; that that is a clearer direction for the applicant instead of saying that the applicant's done without really saying anything.

Ms. Bennett said that we need a rationale.

Mr. Lentz said that, once again, Robert's Rules and the ordinance don't agree because the ordinance says that we can approve, modify, or disapprove.

Ms. Lemire said that was right but that the PB would be doing the same thing.

Mr. Lentz added that it would be reversed.

The PB was in agreement on the format for future motions of this kind.

DISCUSSION ENDED

VOTE

4-0

Motion approved

ITEM 6 – PUBLIC HEARING

A. 278 River Road (Map 18/Lot 11) PB19-3: Shoreland Zoning Permit – Application for a permanent pier with an associated seasonal gangway and seasonal float to allow docking.

Received: March 14, 2019

1st Heard: April 16, 2019

Public Hearing: April 16, 2019

Site Walk: N/A

Approval: April 16, 2019

Zach Taylor, Riverside and Pickering Marine, and Robert Laltoo, owner, were present for this application.

Mr. Taylor discussed the proposed project:

- Standard construction of a pier, gangway, and float off the shoreline.
- Existing house built right along the shore.
- Existing marine railway runs out into the water.
- In evaluating the shoreline, the best location for the dock is centered in the property.
- Standard, pressure-treated, marine-grade dock built into the waterway.
- 96-foot long fixed pier.
- 30X40 aluminum seasonal gangway.
- 8X30 seasonal float, located by moorings, resting on float stops at low tide.
- Installing batter piles on outer piling sets to compensate for ice flows.

Mr. Taylor added that there used to be a docking structure there, with still some semblance of it currently; that he could not find documentation as to exact size so this is considered essentially a new dock, as far as DEP is concerned. He said that there are still pilings out in the water and the old float marine rails go along the shore. He added that the project has been submitted to the DEP, ACE, Maine Historic Preservation Commission, and everybody else that gets to take a peek at it.

7:13 PM Public Hearing opened.

Mr. (Barry) Krasnow (abutter), 267 River Road, asked if the pier had access to the beach from stairs on the fixed pier – do you go down the stairs and go down to the beach or is it just out to the float.

Mr. Taylor said that it's just out to the float; that there are stairs near the house that go down to the beach.

Mr. Krasnow said that the problem is, since the pier is in the middle of the property, right now there are some people that reside there that use his stairs on his property to access the beach; that the abutters built the stairs without realizing that they were on his property. He added that he asked them to sign something so that, if they get hurt, they are at their own risk using those stairs. He said that, recently, he guessed that there was a brother-in-law that maintained the property because both the house and beach house are rented all the time; that the brother-in-law keeps his boat there down at the end of his stairs, accessing the beach; that they don't want to use the access by the house because there are renters there all the time. He said that, at first, he didn't have a problem but he brought his boat, has a big shed down there; that the shed has been knocked over by waves and all the stuff that was in the storage shed he has pictures of (showed pictures to PB). He said that it would be a minor thing but he thinks it would be easier to put a set of stairs, as you are only 2 feet off the sand, from the pier down to the sand; that if the applicant is willing to do that then it solves all his issues. He discussed the pictures with the PB that showed the property markers, the stairs, the shed, and the debris from the shed. He added that the applicant has the frontage and he's going to have a pier going right down the middle and, if he would put an access right down to the beach, he didn't think it would be very difficult.

Mr. Lentz asked if that was agreeable, if they could work that out.

Mr. Taylor said that, to be frank, he was unaware that those were stairs that he built and was using.

Mr. Krasnow explained how the stairs came to be built on his property, that waivers were signed, and the incremental impingement of his property, reiterating that having access in the middle of the pertinent property would eliminate the whole issue.

Mr. Taylor said that he didn't see an issue with that and he suspects the State won't have too many issues, either, with a small set of stairs coming off the pier.

Mr. Lentz asked if the PB could count on that happening to your satisfaction.

The applicant said yes.

Mr. Cieleuszko asked if the marine rails were going up into the house in the upper right picture.

Mr. Krasnow clarified the marine rails, stairs, and homes, pointing to the details in the pictures.

Mr. Krasnow asked if the use of the pier would be allowed for all guests of the owner or just restricted to the owners/renters. He said that the reason he asked is that, if you put the set of stairs 'there' and only the renter down at the water can use that pier, then the brother-in-law is still going to be...he can't go down there because that belongs to the renter; that he doesn't know if you can answer that question but it's a concern that he has that, even if the access is to the water, if only the renter in the beach house can use it, then the person in the big house and the maintenance brother-in-law...you know...and that's why he wasn't using the access right next to the house; that he didn't want to disturb the renters that were living there.

Mr. Lentz said that, unless the other Board members see differently, he doesn't think this Board is in a position to say who can use that dock.

Mr. Taylor said that we can certainly discuss all that.

Mr. Krasnow said that he just wants to make sure that...they can move their cars and tents and everything down front - his guests, that's why he asked about his guests.

Mr. Krasnow asked if the winter storage of the ramp and float be in the vicinity of the fixed pier either of the 25-foot riparian setback lines. He said that the last dock/pier that was there, there were a lot of floating sections and he piled them up in front of his (Mr. Krasnow) property; that there should be plenty of room, with 500 feet of shore, to store the stuff and not affect the setback.

Mr. Taylor explained that, as far as DEP/ACE regulations, a gangway can be stored on a fixed pier but a float cannot be stored below the highest annual tide, so he can't store...

Mr. Krasnow said beautiful, that's even better; that as long as he doesn't put it on his land.

Mr. Krasnow said that, right now, the collapsed shed and associated contents, which the owner owns, are going to be cleaned up or at least moved to the 25-foot setback before the pier is installed.

Mr. Lentz asked if Mr. Krasnow had talked to the CEO about this.

Mr. Krasnow said that the Planner was there just today; that he took some pictures and showed him the stuff that had fallen apart; that it actually had fallen apart last year and he wanted to see if he would take care of his own mess over time and just, since last fall, it's kind of beat up and stuff is all over the place.

Mr. Lentz said that that's the kind of stuff that should be talked to the CEO about; that maybe a letter to the owner would be in order.

Mr. Krasnow said that he would see the CEO about it, then; that it would probably take 3-4 hours to clean it all up and get it out of there.

Mr. Krasnow said that his last question was that he assumed that the pier was private and they couldn't use it to support any commercial operation or they would have to come back before the PB.

Mr. Lentz said that that was correct. He added that it was not a commercial pier.

Mr. Krasnow said that they paid and built the set of stairs and, if they had kept it clean, he wouldn't have said anything.

Mr. Lentz asked Mr. Taylor if he would be in contact with the owner for any of those issues.

Mr. Taylor said yes, that he would be talking to him.

Mr. (Henry) Ogilby (abutter), 88 Taylor Road, said that he was trying to remember if it was 15 or 20 years ago but there was a pier on this particular property and there were great discussions in front of the PB on whether it was a commercial marina or a private pier; that everyone was always saying that it was a private pier. He added that, then, some of the people using the marina got very disgruntled with the owner and came to the PB with cancelled checks for their rental and their slip and their mooring, etc.; that he thinks he already heard what he wanted to hear. He said that he would just like the PB to clarify what is a marina and what is a private pier because he can just see, especially where the

property is not owner-occupied...he is just concerned, because it's a beautiful stretch of the river, and it would really be too bad to have it become a marina.

Mr. Lentz said that the only thing he could say is that this particular application is not for a commercial pier and not for a marina; that this is for a private pier.

7:29 PM Public Hearing closed.

Mr. Cieleuszko asked, with the old, original pier, is that in the general position where the new pier is or is it near the rails.

Mr. Taylor said that it is near the rails.

Mr. Cieleuszko asked if that was just going to degrade or is there anything left.

Mr. Taylor said that the marine rails used to be substantially longer and you can actually still see some rail sections out in the river; so, the section that runs out to the mean low water line is still in pretty good shape so, with minor upkeep, it's still a functioning rail; that they don't have any intention of tearing it out. He added that the dock is gone; that all that's left is the old marine car that goes to the marine rail; that there's only just some pilings left out in the mud, as far as the old dock.

Mr. Cieleuszko asked, out of curiosity, does that go right up into the house, was that house originally the boat house.

Mr. Taylor said yes; that that was where he pulled boats in to do work on them.

Mr. Cieleuszko asked, regarding the new dock, in the height page of the prints it wasn't clearly marked whether there is enough room for strollers to go under it near high water.

Mr. Taylor said yes, there would be room for passers-by along the beach. He explained that because it's a 6-foot wide dock, and we're not going over any areas of marsh grass, we generally keep to the same regulation of, for every foot wide, we go a foot high; that, for the most part, the height would be 6 feet, plus, to walk underneath. He added that, as you can see on the proposed Dock Profile AA, the bracing is out closer to low water so there are three vents there where people have access to kayak under, walk under, etc.

Mr. Cieleuszko asked if the applicant had gotten the permits from the DEP.

Mr. Taylor said that that is in process.

The Planner asked if the PB had seen the note from the CEO regarding that permit.

Mr. Lentz said that that would be a condition of approval.

Mr. Krasnow asked, if they put the beach access (stairs) there, could he be notified.

Mr. Taylor said yes.

Mr. Cieleuszko moved, second by Ms. Bennett, that the Planning Board accept the application for a pier at 279 River Road, PB19-3, with the following conditions of approval plus additional conditions added after discussion:

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

DISCUSSION

Mr. Cieleuszko said that we have to make sure, for one, that the DEP and ACE permits be brought to the CEO or Planner.

Ms. Lemire said that the one that has been used in the past is "DEP and Army Corps of Engineer permit approvals shall be submitted to the Town Planner or CEO prior to beginning construction."

Mr. Cieleuszko said, as Ms. Lemire said. He added that, then, 'access established to the beach from the dock' and then let them figure it out.

The Planner said that he didn't think the PB could stipulate that; that, certainly, they need to respect the riparian setback and the Krasnow property and find alternate means if they don't wish to construct the stairs off the pier.

Mr. Cieleuszko said that it was testified that he would put stairs off the pier.

Mr. Taylor said that he can submit it to the DEP but it's still something that the DEP and ACE have to okay. He added that, if the PB has it as a hard-and-fast stipulation and DEP doesn't approve it...he thinks they will. He added that, if they won't, then we will have to figure out an agreement with the Krasnows because, obviously, things aren't working put that well down there, now, so something has to be figured out. He said that the stairs are a great idea, and he will get that through the owner, then try to get that through the DEP; that if that is how it goes, then that's fantastic, but if the DEP says no, then we're obviously going to have to have a conversation to figure it out.

Mr. Lentz said that it's part of the permitting.

Mr. Cieleszko agreed, saying that he understood it might screw up the DEP permit process.

Mr. Taylor said that it might not; that he's just saying that he can't say, absolutely, stairs because he doesn't know if they will approve the stairs. He explained that, if there's already a set of stairs, they might say we already have a set of stairs so why do you need another set. He said that there's a set of stairs, already, right next to the house and, now, he has to convince them to build a set of stairs off the dock, as well; that he's just saying he can't promise a set of stairs in that place.

Mr. Cieleszko said that it sounds like the stairs are going to go out the window.

Mr. Krasnow suggested a condition that stairs shall be installed provided DEP approval is obtained and, if the DEP rejects it, the stairs are not required.

Ms. Bennett said that Mr. Taylor brought up a good point in that it is a complete unknown whether the DEP will agree to a dock that now has an addendum to it, which is adding stairs to it, and this application is for a pier.

Mr. Cieleszko said that he's happy approving it, as is; that he doesn't want to give the abutter a false hope that he's guaranteed that a new access is going to be done.

Mr. Lentz said that, clearly, this discussion should be held between the two property owners.

Ms. Bennett agreed that he raised an important point in that it's outside the purview of this application because this application is just for a pier; that the abutter has brought up some issues that are happening on his property pertaining to access to the water from the applicant; that she would encourage the abutter to work with the applicant, or his agent, to resolve the access-to-the-beach issue. She added that, if there's another amendment to the site, another stair access, we'll take a look at it.

Mr. Cieleszko said that he didn't want to dilute our authority and have it lost that we recommend something and it's going to go out the window. He added that he'd love to

see it happen but, unless we say you don't get a pier unless you have another set of stairs, then it's not going to happen.

Mr. Lentz said that he thinks that is beyond this PB.

Mr. Cieleszko agreed; so, he's sorry, but he thinks the only extra condition would be receiving copies of the DEP and ACE permits.

Ms. Bennett agreed; that we should keep our consideration just to the pier.

DISCUSSION ENDED

The following condition of approval was moved by Mr. Cieleszko and seconded by Ms. Bennett as an amendment to the motion.

“DEP and Army Corps of Engineer permit approvals shall be submitted to the Town Planner or CEO prior to beginning construction.”

Mr. Cieleszko moved, second by Ms. Bennett, that the Planning Board accept the application for a pier at 279 River Road, PB19-3, with the following conditions of approval plus additional conditions added after discussion:

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

VOTE

4-0
Motion approved

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

ITEM 7 – OLD BUSINESS

There was no old business.

ITEM 8 – NEW BUSINESS

A. 495 Harold Dow Highway (Map 53/Lot 6) PB19-4: Request to amend a previously-approved site plan

- 1. Demo and removal of existing warehouse/business office at NE end of property,**
- 2. Increase size and revise the type of the approved caregiver storefront building to accommodate 1,600 square feet of storefront/office space and 1,200 square feet of general warehouse and storage facility,**
- 3. Expansion of public and retail employee parking to 24 spaces**

Received: April 5, 2019

1st Heard: April 16, 2019

Public Hearing: N/A

Site Walk: N/A

Approval: April 16, 2019

Attorney Rines, representative for Sweet Dirt, and Mr. (Hughes) Pope, applicant were present for this application.

Attorney Rines said that this is a request for a previously-approved site plan at 495 Harold L. Dow Highway; that the original site plan called for the building at the front of the location to remain and a 24X36 building to be put in as a caregiver storefront. He added that we feel this is an improvement, both from a security and volume perspective, increasing the parking gives us visibility for our business, as well, and he thinks it's going to look a lot better. He said that the setback was already granted for a reduction in setback waiver by the Board of Appeals (BOA) on November 16, 2017; that we are not changing that non-conformity; that we are still 8 feet from a public facility, which is just across Route 236. He added that the septic plan will handle 12 full-time employees on any given day; that we don't expect to be at 12 for some time and he couldn't perceive why, at this particular facility, we would need more. He said that the lot coverage is still well-within the ordinance limits at 12.7% and we have more than ample parking; that there are enough parking spaces under the ordinance if we were to use the entire footprint for office/retail space; that we are using just over half.

Mr. Cieleszko said that he noticed how the fencing is running in, asking if that is modified from the original, as he couldn't find an old drawing of the security fencing.

Attorney Rines said that he doesn't believe that has been modified.

Mr. Cieleszko said that he hasn't been to the site, asking if there was a gate out there.

Attorney Rines said yes; that there is restricted access, gated, razor wire.

Mr. Cieleszko said that there was no purposeful change, this was just structural.

Attorney Rines said that that was correct. He added that the only other major change was that that front building, which is now a garage, will be coming down.

Mr. Cieleszko asked if that was going to be for parking, for the most part.

Attorney Rines said that that was correct.

Mr. Cieleszko asked if the storefront would still be in the general vicinity of where it is now.

Attorney Rines said it would be the same location but, rather than taking up part of that footprint where there was a middle building there, it would be taking up that entire footprint.

Mr. Cieleszko asked if the applicant was considering this a minor change, with no public hearing.

Attorney Rines said that, in our opinion, yes; that it was already approved, the use was already approved, a like use was already established, and the use of that building was established. He added remembering that there were issues back-and-forth about the parking, initially in August, so we wanted to be sure we had enough to meet the spirit of the ordinance.

Mr. Cieleszko asked why the change.

Attorney Rines said that there were two reasons, fundamentally; that one was volume, we are growing faster than anticipated and, two, we need the storage space that we are going to be using at the back of the building; that, three, security, this is going to be a much more secure facility than the 24X36 that we originally proposed.

Ms. Bennett said that she is still trying to wrap her head around how much it's changing from what we approved; that we've approved a couple things.

Attorney Rines clarified, using the proposed site plan, that the initial approval had a 24X36 building on the same orientation on this footprint; that there is currently, and was

to remain, a garage; that the fundamental change is that we were expanding this to a 40X70 footprint, 'this' is being removed, and we're adding more parking.

Ms. Bennett said, so, on a net square-footage basis, like building coverage...

Attorney Rines said that he thinks we're netting out about the same that was there originally.

Mr. Lentz agreed that that is what it seemed to him.

Attorney Rines said that he thinks that might have been at 13% if all the buildings were still erected but we are just under that now.

Mr. Lentz said that the new building is a single-story, as he showed us.

Attorney Rines said yes; that he supplemented the application with a single-story mainly to show you that it's going to be a slab on-grade, same exact footprint, actually 10 feet lower and is within the height restrictions at 22 feet.

Ms. Bennett asked if that would be paved parking.

Attorney Rines said no.

Mr. Lentz said that this was to amend a previously-approved site plan (August 28, 2018).

Mr. Lentz asked if we were talking about a new septic system.

Attorney Rines said no; that the current system plan is indicated; that there was no identifying record on the plan, itself, but it's dated February 9, 2017. He added that it is rated at 180 gallons per day at 15 gallons per day per employee.

Ms. Bennett said that she has to agree with the applicant that it does not seem like a significant modification, in total, to the site plan.

Mr. Lentz said that, if there is nothing else, the Chair would accept a motion.

Mr. Cieleuszko asked if we had dimensions for the new building.

Attorney Rines said that the new building is 40X70, 22 feet high, slab on-grade.

Mr. Cieleuszko asked if the interior was the same dimensions.

Attorney Rines said that it was 1,600 square feet.

Mr. Cieleuszko clarified he was asking about what is noted as 'storefront'.

Ms. Bennett said that it is noted on the plan of 1,600 square feet for 'storefront' and 1,200 square feet for 'warehouse'.

Mr. Cieleszko asked if that had not changed from the original application.

Attorney Rines clarified that the square footage has grown; that the original building was 24X36 and, now, it's considerably larger.

Mr. Cieleszko asked about the storefront, the area where the public is going to be.

Attorney Rines said that that would be slightly larger; that most of the increase will be used for two consultation suites so the retail footprint will be larger but we want our patients to have privacy as they are doing consults.

Mr. Lentz said that it's internal.

Attorney Rines said that that is correct.

Mr. Cieleszko said that it's still just 'caregiver'.

Attorney Rines said that that's correct.

Mr. Cieleszko said that we really should have the numbers for area and height that are not on the print – Amendment to Site Plan L-1; that there's no height, there's only a square footage.

Attorney Rines pointed out where that was.

Ms. Bennett moved, second by Mr. Cieleszko, that the Planning Board approve PB19-4, a request to Amend the previously-approved Site Plan.

DISCUSSION

Ms. Bennett said that she would like to amend her motion to have it subject to revised amended site plan, labeled L-1, to include the dimensions of the proposed new building.

Attorney Rines clarified that it would include height, etc. He added that we can make a specific reference on the site plan and, then, refer to that.

Ms. Bennett said that it would be great to have that 40X20 dimension on the actual site plan.

Ms. Lemire said that Ms. Bennett could just state to include the three standard conditions.

Ms. Bennett said to include the three standard conditions. Mr. Cieleszko seconded the amended motion.

DISCUSSION ENDED

Ms. Bennett moved, second by Mr. Ciesleszko, that the Planning Board approve PB19-4, a request to Amend the previously-approved Site Plan, subject to the following conditions of approval:

- 1. The property may be developed and used only in accordance with the plans, documents, material submitted, and representations of the applicant made to the Planning Board. All elements and features of the use as presented to the Planning Board are conditions of approval and no changes in any of those elements or features are permitted unless such changes are first submitted to and approved by the Eliot Planning Board. Copies of approved permits from Maine DEP, Army Corps of Engineers, if applicable, and State shall be provided to the CEO before construction on this project may begin.**
- 2. The permit is approved on the basis of information provided by the applicant in the record regarding the ownership of the property and boundary location. The applicant has the burden of ensuring that they have the legal right to use the property and that they are measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden. Nor does this permit approval constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title issues. The permit holder would be well-advised to resolve any such title problems before expending money in reliance on this permit.**
- 3. The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.**
- 4. This approval is subject to revised amended site plan, labeled L-1, to include the dimensions of the proposed new building.**

VOTE

4-0

Motion approved

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

B. Discuss enactment of Agritourism Ordinance.

The Planner said that this was more an initial opportunity to float the idea; that this was something that Mr. Widdy came forward with in discussion with the SB and Mr. Lee asked that we flush this out and start thinking about it. He added that it isn't on the front burner to develop forthwith but something for us to just be thinking about and working on. He said that Mr. Widdy has provided an outline of activities and some language that can be used for a formal ordinance.

Mr. Lentz said that he did hear Mr. Widdy's presentation and it was rather interesting. He suggested that, perhaps, this is something we need to have a workshop on, sit around the table and talk about what he is really trying to do and maybe see how we might help him. He added that it may be interesting to have other people in the same type of situation to join him that night, a few other fellows that are trying to do their farming like this.

The Planner asked if the PB would like to schedule that for the next administrative meeting available in June.

Mr. Lentz asked if the PB agreed with scheduling the workshop.

Mr. Cieleuszko said that he has no idea who presented this and where it came from; that he's looking at it in terms of somebody is trying to start a business and they want us to make the ordinance fit their business. He added that we shouldn't be messing around with the ordinance right off the bat until they test what we currently have.

Mr. Lentz said that he thinks that's why we would want to get together, to get a better idea of what he's trying to do.

Mr. Cieleuszko said that he doesn't want to kill a lot of time on somebody who should go to the CEO saying he has a similar business to a farm, or he has a modified farm and get a permit for it.

Mr. Lentz asked if Mr. Cieleuszko didn't think it was worthwhile sitting down and talking with him.

Mr. Cieleuszko said no, not yet, not until he's run the course of the current ordinance.

Mr. Lentz said that perhaps he has.

Mr. Cieleuszko said that maybe he has but he's not here; that maybe if he comes the next time, we could take it up.

Ms. Bennett said that the State of Maine has enabling legislation that there's a right to farm in the State of Maine and the face of farming is changing by people who have come before this Board on a number of occasions; additionally, Eliot has a strong history of farming in it; distant but nice that it's still alive, in her opinion. She added that she knows that there are a number of communities within the State that have looked at their ordinance to make sure that they are farm-friendly because, especially as towns get more suburbanized, it can be in conflict with farming. She said that she doesn't know if this Agricultural Tourism draft put before us is necessarily indicative of an existing conflict but she thinks it might be good to just take a look and to sort of rate our ordinances as to whether we are supportive of farming, or not, and in the process we could gauge the temperature of the community around this. She added that she thought it would be a useful planning exercise and especially if someone, like an existing farmer, wants to look

at our ordinance and say he's found areas where the ordinance doesn't fit with the modern look and feel of farming.

Mr. Lentz said that he thinks it would help us as a gauge to know where we stand in terms of all of that; that that would be his interest.

Ms. Bennett said that there are some great publications from the Maine Farmland Trust specifically written for planning boards to specifically look at their ordinance. She added that some communities, she thinks Sanford is one, that have made pro-active statements about being pro-farming.

Ms. Braun said that she thought we should pursue it and see what the gentleman has to offer and what he's interested in doing; that then we can get together, as a group, and decide which direction we should go; that, as Ms. Bennett said, are we for farming or are we not.

The Planner said that he met Mr. Widdy out on his farm and it was specific activities, not necessarily farming, itself, but certain activities that he could do on his farm; that Mr. Widdy felt that he was limited and wanted to see the ordinance tailored towards being able to accommodate those kinds of activities on the farm.

Mr. Lentz said that we should schedule something, if there are no other objections; that we can do that as a workshop and take an hour to do that along with some other things that evening.

C. Planning Board recommendations regarding Growth Permits.

The PB agreed to take this up after reviewing the PB19-6 application.

E. 291 Harold L. Dow Highway (Map 37/Lot 2-1) PB19-6: Preliminary Site Plan Review – Medical Marijuana

Received: April 10, 2019

1st Heard: April 16, 2019

Public Hearing: _____

2nd Hearing: _____

Site Walk: _____

Approval: _____, 2019

Mr. (Alex) Ross, applicant & caregiver, and Mr. (James) Folan, caregiver, were present for this application.

Mr. Ross gave a couple of handouts to the PB. He said that he and Mr. Folan are Eliot residents and we are before you to get the parcel at 291 approved for usage of cultivation

and processing for medical cannabis. He added that one of the papers he just handed out, in yellow, shows the 500-foot buffer per Eliot's guidelines to make sure we're not within 500 feet of municipal buildings, residential areas, places of worship; that the 11X17 handout shows the 50X100-foot structure (5,000 square feet) is located on the parcel and owned by Paolucci Realty Trust, or Peter Paul, another Eliot resident. He explained that there would be 6 employees, therefore, 6 cars; that lighting may be a motion sensor outside the building; that there will be no noise; regarding odor, this will be a sealed, enclosed-environment cultivation center, which means there is no outdoor exchange of air and all air indoors is moved by commercial-sized air scrubbers and carbon filters. He said that there is little water usage and the current well on the parcel is 50 gallons/minute; that we have purchased a system that recovers 95% to 97% of the water we give the plants' that we recover that, clean it, and re-use it. He said that he didn't know what other information the PB would like or questions they had about it.

Mr. Lentz said that, first of all, he considers this very preliminary and there is a long checklist, which the applicant needs to comply with. He asked if there were any questions.

Mr. Cieleuszko said that he's not seeing anything for the exchange area between what you are making and what you are supplying. He asked if this was a delivered product.

Mr. Ross said yes.

Mr. Cieleuszko said that no one would be coming to the place to pick up product.

Mr. Ross said that that was correct, no foot traffic from patients or other caregivers.

Mr. Lentz asked if this was strictly processing and delivery.

Mr. Ross said yes.

Mr. Cieleuszko said that the applicant just said that there's no exchange but there's a filtered exchange with the outside air. He added that the air is scrubbed before it goes out and you're just sucking air in, and it's blown out, so there is ventilation.

Mr. Folan said that it's a completely sealed environment; that we'll be supplementing with CO₂, which is the building block of the plant's growth cycle; that as far as an exchange of air, there won't be an exchange; that, perhaps, once every month or two months, there would be an airing out of the facility if that would be necessary. He added that it should not be; however, that being said, we are looking at air purification systems using UV sterilization so that would remove any microbes in the air; CO₂ would be supplemented, plants respire oxygen, so it would be a very sealed environment mitigating any of the smells, noise, etc.

Mr. Cieleuszko said that it was all artificial lighting.

Mr. Folan said exactly so nothing would be exiting the building in that sense.

Mr. Cieleuszko asked if the applicant was going to present to the PB the qualified systems and all the characteristics.

Mr. Folan said that there's a lot of guidelines from the State on what type of facility we really do need and require; so, we figured we wanted to present this to the PB to try to get a feel for it and make sure we get the use approved so that we could then move forward; that we do have some preliminary plans.

Mr. Cieleuszko said that the building plan is good. He added that he doesn't have much to go on other than they have a good 500-foot radius; that that's about all we have to run on with this and he would like to see a package filled out and that would give us more options.

Mr. Lentz asked if the applicant was in operation today.

Mr. Ross said yes, for cultivation.

Mr. Lentz asked if it was local.

Mr. Ross said yes.

Ms. Braun asked if the applicant packaged it, as well, in individual packages for the caregivers to distribute or is it strictly the growth and shipping it in bulk.

Mr. Ross said that it depends; with patient direct, State law requires us to deliver it directly.

Mr. Lentz asked how it gets to the applicant's facility, do they actually grow it all there.

Mr. Ross said yes, we grow it.

Ms. Braun asked if they ship it in bulk for someone else to package.

Mr. Ross said no; that we harvest it, package it, and drive it to our patients.

Ms. Braun asked if 6 employees were going to be enough for that work.

Mr. Ross said, to start, yes.

Ms. Braun asked if the applicant had any proposal that that would increase.

Mr. Ross said no; that with the land and structure, we should be fine with 6 employees. He added that we are using a consulting firm that specializes in setting these up so the

idea is automation, turn-key, should all be there and that does limit the amount of labor we need.

Mr. Cieleszko said that his understanding is that the applicant is limited to the amount of caregivers they can supply.

Mr. Ross said correct.

Mr. Lentz asked the applicant to put some overall dimensions on the drawing.

The applicant agreed.

The Planner said that it would be good to have a site plan that shows the buildings on these adjacent lots, as well. He asked if there were no sensitive uses – churches, schools, residences.

Mr. Ross said correct.

Ms. Bennett said that all the pieces of the site plan the applicant has given us should probably be consolidated onto one document. She asked if there were to buildings on this property.

Mr. Ross said correct.

Ms. Bennett said that the applicant should demark both buildings on the site; that you are modifying one building but you need to show the existing building, and that use is not going to change.

Mr. Ross said that that's correct.

Ms. Bennett reiterated that he definitely needed to put both buildings on there. She added that she believes that, with what the applicant is proposing, he needs to provide fencing and that needs to be marked on the site plan; that it will definitely have to go to the Fire Chief and Police Chief for their review and, whatever consolidated plan the applicant puts together, it definitely needs a scale, the buildings on the adjacent properties. She said that you've labeled the abutters, and that's a great start, so these are all the pieces that we want to put onto a site plan.

Mr. Lentz said that what would help us is for the applicant to go down the checklist and, any of that material that's applicable, put it in the form that the checklist presents.

Mr. Cieleszko added that, if the applicant doesn't feel he needs it, he can check with the Planner.

Ms. Bennett added that the more detail the applicant can give us the less likely we are to have issues.

The PB scheduled this application for continued review at the May 21st PB meeting.

Mr. (Mike) Lewis, York Woods (abutter), said that he was here, today, talking with the Planner; that there are a couple of concerns he has. He added that there is obviously something going on more than what people know of out there next to him. He explained that he had an incident two months ago when he had a worker come to work at 7AM and all he could smell was pot; that he thought it was the worker, who is a Class A truck driver. He said that he didn't have any questions but, now, as an owner of the company who has to be ahead of the drug test program through the federal motor carriers we are involved with, he's questioning himself and his worker; that after a few minutes of talking with his worker, he went outside and got hit with a wall of pot, with the wind coming over from where that building is going to be but it's the further building. He added that he's finding himself questioning his employees. He said that the odor is pretty prevalent; that if the applicant is going to release once a month, that's one thing, but it's a constant, day-to-day battle; that it's nothing to do with the applicant but it is one of his concerns, overall; that he doesn't know what is going on at other facilities, whether it's being scrubbed, or even being handled properly. He added that he doesn't want to have to take a random urine test as part of his requirements and test positive; that he doesn't know much about pot, just that it's out there; that he doesn't want that to affect him or any of his workers.

Mr. Folan said that he's taken the air control pollution courses and, as far as mitigating the smell, any releases would, in fact, be pushed straight up and, more likely than not, it would be 20 to 40 feet above.

Mr. Ross said that we live here and we want to be above board with all this; that we can't speak to what systems they may have in place; however, these systems are expensive so he can see why people don't use them. He added that we don't want to be creating a stinky mess, and that can happen in these warehouses. He said that we definitely appreciate the comments.

Mr. Lentz said that this Board is not aware of another facility in the area Mr. Lewis is talking about. He asked if Mr. Lewis has been to the CEO.

Mr. Lewis said that he hasn't talked to anyone; that it hasn't affected him but, recently, the amount of odor coming from there and, now, this episode where he is kind of falsely accusing a worker of using, affects his relationship with the workers; that he doesn't want it to be so prevalent that, if someone did start using it and he just thought it was a smell outdoors and something happened, an accident, and the worker tested positive, whether it was his fault or not, it's going to come back on the company. He added that it sounds like the applicant is going to put in a pretty nice system; that it would be pretty much contained, so be it; that he knows it's preliminary and he just heard about it today, so he thought he'd come in and ask the questions.

Mr. Lentz said that he thinks he and the Planner can talk about that a little more. He thanked Mr. Lewis for his input.

C. Planning Board recommendations regarding Growth Permits.

The Planner said that this memo was the 2019 figures that had been put together previously and, if we were making a change to this, it would need to go before the Town to approve it, one way or the other; that as we have been approving more permits than have actually been issued, there didn't seem to be any reason to increase the number.

Mr. Ciesleszko asked if the Planner was recommending that the number stay as it was for 2019 and that requires no action by the Town.

The Planner said yes.

Mr. Ciesleszko asked if the Planner was happy with that number.

The Planner said that he talked with Mr. Lee about it and there didn't seem to be any reason to adjust the figure on way or another.

There was a brief discussion regarding the inclusion of elderly housing units and the potentially negative impact that had on the number of growth permits calculated.

Mr. Ciesleszko moved, second by Ms. Bennett, that the Planning Board accept the recommendation from the 2019 Projected Growth Memo of 26.

VOTE

4-0

Motion approved

The Planner said that he was going to suggest having a workshop on this and the Agritourism on the June 4 meeting.

Ms. Lemire said that the actual date of that meeting is the date of the Town Meeting.

Mr. Lentz asked if we should move the date.

Ms. Lemire said that that is what you did last time.

After a brief discussion, the PB agreed to hold their workshop meeting on Monday, June 3rd.

ITEM 8 – CORRESPONDENCE

There was no correspondence.

ITEM 9 – UPDATES

There were no updates.

ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING


A) Marijuana Ordinance Workshop with Select Board – May 7th at 7:00 PM.

Mr. Lentz encouraged Board members to bring their copies of the draft ordinance.

The next regular Planning Board Meeting is scheduled for May 7, 2019 at 7PM.

ITEM 11 – ADJOURN

There was a motion and a second to adjourn the meeting at 8:31 PM.


Dennis Lentz, Chair
Date approved: 5/7/2019

Respectfully submitted,

Ellen Lemire, Recording Secretary