

ITEM 1 - ROLL CALL

Present: Dennis Lentz - Chairman, Larry Bouchard, Ed Cieleszko, Christine Bennett, and Melissa Horner – Alternate.

Also present: Ms. Cole-Prescott, Planner.

Absent: Greg Whalen (excused).

Voting members: Dennis Lentz, Larry Bouchard, Ed Cieleszko, Christine Bennett, and Melissa Horner.

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. Bouchard moved, second by Ms. Bennett, to approve the minutes of March 6, 2018, as written.

VOTE

5-0

Motion approved

ITEM 6 – REVIEW “NOTICE OF DECISION” LETTERS

A. 6 Julie Lane (Map 37/Lot 3) PB18-1

Mr. Cieleszko moved, second by Mr. Bouchard, that the Planning Board approve the Notice of Decision Letter for PB18-1, as written.

DISCUSSION

Ms. Bennett suggested adding the detail ‘Erosion & Sediment Control Plan’ to this notice under Line 2 of Supplemental Documentation, as there was lengthy discussion regarding this being done and why.

Mr. Lentz said that the applicant updated the plan and it is on there; that we did not make it a condition of approval.

The Planner asked if the PB wanted her to list, under the Site Details Plan, the Erosion & Sediment Control Plan.

Mr. Lentz and Ms. Bennett agreed that would be a good place to put it.

Mr. Bouchard asked if that was the only amendment.

Ms. Bennett said that that was her only proposed amendment.

Ms. Horner asked if adding that wasn't clerical overkill, as it is part of the Details Plan, and now we will have to list every single thing underneath Site Details Plan. She added that she understood what Ms. Bennett was doing but said that this was just a clerical thing; that if someone were to put in an appeal, and they went back to look at the documents and see that we received the Site Details Plan, then, when it moves forward and those documents get pulled, the Erosion documents are already in that plan; that it just seems like clerical overkill.

Ms. Lemire said that she didn't list that specific thing with the Site Details Plan because that plan shows more than the Erosion Plan.

Mr. Bouchard said that that was why he asked his question.

Ms. Horner said that, if we site the Erosion specifically, then we should also cite everything else; that then we would have to site every time moving forward every other time.

Mr. Cieleszko said that the applicant is responsible for the whole site plan, as presented.

Mr. Lentz added that the plan was changed.

Mr. Cieleszko said that that is referenced 'there' [amended site details plan].

Ms. Lemire said that there is no waiver for it.

Mr. Lentz added that it was not a condition of approval.

Ms. Bennett said that we did request it, though, and we had extensive conversation about it.

Mr. Lentz asked if we were looking to amend it in the wrong place and asked if it could be one of the findings of fact or conclusions.

Ms. Bennett said that she thought it supported the conclusions.

Mr. Bouchard said that it already says that.

The Planner suggested listing details of each supplemental plan submitted.

Mr. Lentz agreed with Ms. Horner that we don't want to get into something that we have to do on every one.

Ms. Bennett said that she was suggesting it only because we had extensive conversation about it.

Mr. Lentz agreed, saying that it was unique.

Mr. Lentz asked if small letter b., under conclusions, cover that.

Ms. Bennett said that she wondered, going forward, in 10 to 20 years with another PB, if there is a proposal for this site and they pull the decision letter and read it, there is no reference to this extra effort by the applicant, in addition to the site plan. She added that, if you look at the fine print, you'll be able to see that there is the culvert, etc.

Mr. Lentz said that it was a good point; that the question was where to put it.

Mr. Ciesleszko said that it is in the plan, now, disagreeing that it was fine print; that it's on the plan that's part of our documents, the plan is with the document; that this [decision letter] is a summary sheet to show where they can find stuff. He added that he is sort of with Ms. Horner to leave this as is.

Mr. Bouchard agreed.

DISCUSSION ENDED

VOTE

5-0

Motion approved

ITEM 7-PLANNING BOARD BUSINESS TO BE DISCUSSED

A. By-law Revisions

The PB reviewed this current draft and made minor grammatical/formatting changes, with two substantive changes:

- 3. d) The Secretary shall: (1) Act for the Chair and the Vice Chair in their absence. (2) Attendance *and* alternate member voting rotation shall be kept by the Secretary. (3) ~~and~~ First edit of *draft* minutes shall be *done* by the Secretary.
- 3. e) iii) The public may attend site walks but there *will be no* public comment or input *allowed*...

Ms. Horner will update revisions to the by-laws with a clean copy. The PB will review on May 1, 2018.

B. Stormwater Management: Review Municipal Official's Fact Sheet

The Planner said that this is part of our MS4 General Permit, which is required by the Clean Water Act; that we have to review this to make sure municipal officials are aware of the requirements for Stormwater. She reviewed the sheet as it relates to planning:

- Public fact sheets available in the Planning Office/website
- Link Planning website to Public Works website stormwater page
- Update tracking spread sheet shared with the Town consultant (Christie Rabasca), CEO, and DPW relative to any projects approved by the PB that trigger the Post-construction Stormwater Management Plan (Chapters 31 and 35)
 - Spread sheet will be put on our internal tracking record for greater clarity and ease of access
 - Low impact development information
- More than 1 acre of disturbed area triggers stormwater requirements for the whole Town – Non-stormwater Discharge Ordinance, Post-construction Ordinance.

Mr. Lentz asked if the shaded area on the map aligned with the MS4 permitting.

The Planner said yes; that this is from our requirements as a MS4 community and designated as such. She added that, regarding the Town GIS, there are other layers we can look at online that have different functions that are helpful; that GIS is being updated by Public Works, along with our consultant.

Mr. Lentz asked who sets stormwater requirements for the Town.

The Planner said that there is a permit process that our consultant works on with the towns in the region – York, Berwick, South Berwick, Eliot, and Kittery. She added that permit details and annual reports are on the Public Works website page. She said that the group that meets to discuss stormwater is called Southern Maine Stormwater Working Group and there are links on the website. She also said that the PB's role is primarily to inform the applicants of the requirements to meet the ordinances as well as the Planning Office tracking all applications that could trigger Post-construction Stormwater Management Ordinance.

Ms. Horner asked if we have any ordinances coming up with the permit renewal.

The Planner said that she is not aware of any but she is sure we would be aware if something was coming up; that she will ask our consultant to make sure. She added that the PB needs to understand the two ordinance requirements enforced by the Town and that the ordinances cannot be altered.

Ms. Bennett asked how the new flyer for the public will get to the public.

The Planner said that, right now, we will be putting it on our website and printing it to have it available in the office; that she noticed we have Yardscaping Tips and an LED

flyer but nothing that really brings the information together for a clear understanding of what MS4 may be. She added that her hope is this will help with that as well as giving it out at other areas in Town, like the Library or Transfer Station.

Mr. Lentz wondered if we could do something with Election Day coming up at the polls.

The Planner said that she would find out about that or if there's a mailer going out

C. Target Deadlines: Ordinance Revisions

This memo from the Town Planner described deadline dates for ordinance development to be placed on the November 2018 and June 2019 ballots.

The Planner said that she will creating a physical binder of process and procedure for planning, as well as electronically, so everyone here has access to it.

Ms. Bennett commented that the deadline for November 2018 is tight in considering any amendment to the Growth Management Ordinance (application fee); that the public hearing date is shown as June 19 and would have to be discussed at the next workshop meeting (May 1).

Ms. Horner asked for clarification when you want someone to pay because we already voted and passed in the Town that there was an increased fee.

Ms. Bennett said that Ms. Pelletier had worked out a whole proposed ordinance change whereby, when someone comes in, every time they take out a growth permit application they pay \$100, non-refundable; that right now someone can take out an application and there's no payment made until they get that permit and, then, they make a \$500 payment, with \$400 going towards the actual building permit and \$100 going towards administrating that application. She added that people are going in, putting in their application and getting to the top and saying they aren't ready yet; that she thinks it's more the CEO that has to again work through her paperwork and revise the list; that there's an administrative burden being placed on our staff and this fee would at least be a financial disincentive.

Ms. Horner asked if the CEO reached out to us to ask for this increase.

Ms. Bennett said that she thinks it was Ms. Pelletier that brought it forward but it was both of them asking for this; that we had a lot of conversation about it, went so far as to try to schedule a public hearing; that we failed to meet the ordinance requirement on that and it just got dropped; that we've done nothing to it since that period. She added that the increase to \$500 was done in 2015. She said that it makes sense that you have to pay to play; that if you want to pull a growth permit application, you pay an administrative fee for that.

Mr. Lentz asked greater than the \$500.

Ms. Bennett said yes; that that is your application fee. She added that, if there is no fee, then they can just keep coming and making applications; that she didn't know if this was still a problem now that we are issuing more growth permits than we used to be. She said that it does make sense because there is an administrative burden with making the application.

Ms. Horner said that, in the minutes we approved tonight, it says on line 216 "Purpose under Code Enforcement Growth Permit Application...\$100 application fee due upon submission of each growth permit application.

Ms. Bennett said that that was the proposal.

Ms. Horner said that that is what our ordinance says. She added that she would love to hear from the CEO to know if this is still an issue.

The Planner said that the growth permit update and discussion is on here for Item 10 B. and she was going to respectfully ask if we could table this until April 17th, when she could get the full clarification on the complete process and respect for our CEO. She added that she believes the concern, or the issue with the language, is that §1-25 of our fee schedule clearly says "\$500 per dwelling unit upon replacement of the building permit to construct a new dwelling unit. \$400 per dwelling unit shall be credited toward building permit fees.", so that makes it sound like it's a fee up-front; that the ordinance specifies: §29-42 (b) "A nonrefundable application *fee* in the amount specified in section 1-25 (fee schedule) shall be paid within five business days of the date of issuance of the *growth permit*. Nonpayment of *fees* within five days of issuance shall nullify the *permit* and a new application must be resubmitted for consideration." She said that she believes a language revision may be necessary; that she just wants to get the full details if the PB is comfortable with more information on April 17th that she could bring forward.

Mr. Lentz said that he thought that was fine.

D. Application Deadlines: Ordinance Requirements

This memo from the Planner provides an overview of the timelines for application review as outlined in Town ordinances.

The Planner said that, at some time in the future, she would like to add notes on the agenda regarding how many days were left to review the particular application

E. Auto Storage: Ordinance Information

This is a memo from the Planner giving an overview of definitions regarding auto/vehicle-related Town ordinances/definitions.

The Planner said that, on page 3, is the recommended definition for Automotive towing and storage drafted by Mr. Feldman; that, if this is something the PB would like to start

pursuing as a possible ordinance revision, she would like to begin getting input from staff, such as the Fire and Police Chiefs.

Ms. Horner said that, when she joined the PB, she had started a list of better definitions, pulling definitions from other towns and applications we were seeing and we didn't have definitions for them. She added that, while she'd love to see this get ready for November, for efficiency reasons, it makes sense to her to do, say, five at a time rather than one at a time.

Mr. Lentz suggested Ms. Horner try a few so that we can see how much work would go into it.

Ms. Horner said yes; that it's just tedious computer work; that it's not hard at all. She suggested this might be a workshop item.

Mr. Lentz agreed, saying that the next group should be Home Office, Home Occupation because we always stumble on that.

Ms. Bennett suggested taking a functional look at this and consolidate some, as well.

The Planner said that she has also been going through the book and noting places where the ordinances need some revisions; that that was why she put June 2019 on the timeline. She added that she would like to offer some support and help, if the PB would like it, to fill definitions in where there are none or make them more succinct.

Mr. Lentz said that that would be great.

Mr. Cielezsko said that what he thinks we're supposed to be dealing with right now is automotive and towing and he thinks there is a theory of unintended consequences that should make us look carefully before we start adding another category. He added that we have a beautiful piece of our ordinance – 'similar uses' – and that is worked out in the Board of Appeals (BOA), it can be worked out here; that it's been worked out here even in the last couple of cases. He said that we have people in Town that have new ideas for businesses, things are always going to be coming down the road; that there's a sense of keeping up with it but our ordinance definitely isn't full of buggy whips right now; that it's a modern ordinance and he doesn't think other towns are any better. He added that he's seen a lot worse in other towns in all aspects of their operations so he doesn't head for other towns right off the bat. He said that, in regard to this (proposed definition), he isn't sure we need to add it if we have already have it as a 'similar use'; that we have to dive deeper into that before we just add another or we're going to end up like Kittery, with a bunch of individual businesses; that as they approach us with new businesses, we add a new category 6 months later; that he would not recommend proceeding forward with 'this' proposal. He asked if the PB wants the Planner to pursue this as a change in the ordinance.

Mr. Lentz said that, in his opinion, 'this' is a band aid to take care of those 12 things that really don't make a lot of sense. He asked if Mr. Cieleuszko was suggesting we not touch these 12 things and just concentrate on that one.

Mr. Cieleuszko said no; that these things (listed definitions in memo) are already in our ordinance and he doesn't mean to get rid of them, either. He clarified that all we're being asked to look at is if we want a change to our current ordinance to add Automotive towing and storage and he doesn't believe that would be what we need right now.

Mr. Bouchard agreed with Mr. Cieleuszko; that he was going to wait until this came to fruition and we discussed this; that it looks like we're trying to produce an ordinance specific to an application. He added that, in this sample, they're putting in limiting days, securing yards, and things like that; that we have plenty of locations in this Town, already, that if we wanted to go around and start counting how long dead vehicles sit on property, and even right on Route 236, and how many places are not secure by fencing and/or locked yards, then we're going to have an issue with applying this ordinance, he believes, to applications, as the sample is written. He said that it's up for discussion but he agrees that 'similar to' works and leaves us some latitude to discuss and vote on different applications and different conditions of the locations.

The Planner said that she just put this together based on questions we have for auto vehicles and for storage; that you'll see there are some sections that reference storage of vehicles that might come into play with other ordinances; that it was more so we didn't lose the definition that was provided to the PB. She added that, as far as ordinance revisions for definitions, if the PB would like to get started, she could look through to see what uses we have definitions for and what uses we do not; that then the PB could fill in the uses where we do not have definitions.

Ms. Bennett added or 'uses similar to' that would work instead.

The Planner said that she thought the concern was not having definitions for some of the uses.

Mr. Lentz said also asking an applicant to look through these and say which one of these 12 does the applicant think applies; that it's crazy to him. He added that it certainly can be simplified.

Ms. Horner said that she agreed with Mr. Cieleuszko, as well, because she thinks that's going down the path to Mr. Bouchard's point about making sure they are following this and, now, we're creating rules and Ms. Bennett's point about Kittery maybe having too many. She clarified that she was talking about the fact that some are missing, not that she wanted to make more rules; that she was brought up on this PB to think that conversation was a good thing and it was supposed to be left up to interpretation so that there is discussion and things can move forward.

Mr. Lentz asked if he was hearing that we don't want to do anything with these 12 and we don't want to do anything with the one that Mr. Feldman gave us, either.

Ms. Horner said that she definitely doesn't want to add this potential ordinance to work toward a November vote to add it.

Mr. Lentz said that he would agree with that.

Ms. Horner said that she thought the Planner was doing what we asked her to do; that what she said she would do will address these auto issues; that we can then look at it again.

The PB agreed.

The Planner said that she would provide all the uses, highlighting the ones that are missing definitions in §1-2.

ITEM 8 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS

Mr. Lentz said that he asked the Planner to look at the budget; that he went over the budget and, quite frankly, there's a lot of it on there that he doesn't understand and he wouldn't be able to justify the detail that went into that without some kind of analysis and findings as to what those things really mean. He added that one example listed was \$2,000 was for fees to notify abutters; that another was 'legal newspaper articles'; that he thought we charged a fee to the applicant for those kinds of things, so, why we are also budgeting for that is beyond him.

Mr. Cieleuszko said that he thinks that all fees collected go to the general fund and we take money out of the general fund through our budget to pay those things.

Mr. Lentz said that we do show \$7,000 in revenue coming in this year; that he wasn't sure if that was the BOA or the PB; that it's not clear. He added that we'll have this for one of the next meetings.

Ms. Bennett said that, in reviewing the minutes, we talked about looking at other towns to see if they assess a fee to ask for PB third-party review, as is allowed for subdivisions. She added that she has been tasked to work on that and hasn't done anything with that; that she just wanted to confirm that she should continue with that.

Mr. Lentz said yes; that we can work that in to the work session, as well.

Ms. Horner asked if we were allowed to do that.

The Planner said that that is in the ordinance.

ITEM 9 – CORRESPONDENCE

There was no correspondence.

ITEM 10 – UPDATES FROM TOWN PLANNER

A. Policy/Process Update

The Planner gave a memo update regarding the internal process being developed in the Planning Office to the PB and briefly discussed.

Mr. Pomerleau discussed stormwater impacts that could be potentially coming in the future to the Town in terms of costs; that the stormwater budget is currently \$200,000/year; that the SB tried to establish a Clean Water Committee to work in conjunction with the Planner to examine the funding of stormwater. He added that the property tax is not a very equitable way to fund stormwater costs; that there is a variety of methods that can be used to do this, all based on some level of impervious surface that have different impacts in different areas of Town, suggesting ordinance development for criteria of stormwater fees to fund this.

Mr. Lentz agreed, saying that he and the Planner have discussed this; that that was why he had asked Mr. Pomerleau about that committee because it would take a lot of work away from Planning.

Mr. Pomerleau said that we have not had enough people to move forward with that committee. He also discussed that there are many methods for funding stormwater that go from very simple per acre and square footage of impervious surface to much more complex examinations of mapping, drainage, and how it affects the whole ecology of the system.

B. Growth Permits: Update/Discussion

This was previously discussed.

ITEM 11 – SET AGENDA AND DATE FOR NEXT MEETING

The next regular Planning Board Meeting is scheduled for April 17, 2018 at 7PM.

There are two public hearings scheduled.

ITEM 12 – ADJOURN

There was a motion and a second to adjourn the meeting at 8:34 PM.

Town of Eliot
REGULAR PLANNING BOARD MEETING MINUTES

April 3, 2018
7:00 PM



Dennis Lentz, Chair

Date approved: 05/01/2018

Respectfully submitted,

Ellen Lemire, Recording Secretary

