

**ITEM 1 - ROLL CALL**

Present: Dennis Lentz - Chairman, Ed Cieleuszko, Christine Bennett, Melissa Horner, Carmela Braun,

Also Present: Abbie Sherwin, Planner, Ms. Goodwin, Land Use Administrative Assistant.

Absent: Bill Olsen – Alternate (excused).

Voting members: Dennis Lentz, Ed Cieleuszko, Christine Bennett, Melissa Horner 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 - ELECTION OF OFFICERS**

**7:01 PM      Nominations for Chair were opened.**

**Mr. Cieleuszko nominated Mr. Lentz as Chair. Ms. Bennett seconded the nomination.**

**The nominations were closed.**

**Vote was unanimous and Mr. Lentz is the Chair.**

**7:02 PM      Nominations were opened for Vice Chair.**

**Mr. Cieleuszko nominated Ms. Bennett as Vice Chair. Mr. Lentz seconded the nomination.**

**The nominations were closed.**

**Vote was unanimous and Ms. Bennett is the Vice Chair.**

**7:03 PM      Nominations were opened for Secretary.**

**Mr. Lentz nominated Mr. Cieleuszko as Secretary. Ms. Bennett seconded the nomination.**

**The nominations were closed.**

**Vote was unanimous and Mr. Cieleuszko is the Secretary.**

**ITEM 6 – REVIEW AND APPROVE MINUTES**

**Mr. Cieleuszko moved, second by Ms. Braun, to approve the minutes of July 9, 2019, as amended.**

**VOTE  
5-0  
Motion approved**

**Ms. Bennett moved, second by Mr. Cieleuszko, to approve the minutes of July 16, 2019, as amended.**

**VOTE  
5-0  
Motion approved**

**ITEM 7 – OLD BUSINESS**

**A. GROWTH PERMITS – DRAFT WARRANT ARTICLE**

Ms. Sherwin said that the ordinance having to do with the process for establishing the maximum number of growth permits per year spells out the process for that to occur; that one of the requirements is that the PB submit to the SB, in the form of a warrant article, its recommendation for the maximum number of growth permits and, then, that warrant article be placed on the November ballot. She explained that she took the number discussed at the previous PB meeting (24) and put that into the language, along with a footnote outlining that, if the warrant does not pass, the default maximum number of permits is 17; that that is calculated looking at the permits issued over the past 10 years, averaging that, and getting 105% of that number. She added that this will go to the SB for their next meeting and placed on the ballot.

Mr. Lentz said that they did accept the 24 at the SB meeting. He asked if the PB accepted the article, as proposed.

Ms. Bennett said that she was reviewing the ordinance and there were a couple of requirements that she wanted to make sure we met. She said that we were supposed to publish a notice of public hearing twice and wanted to make sure those notice requirements were met.

Ms. Goodwin said that it was.

Ms. Bennett said that another piece was the reports from department heads and making that information available to the public. She asked if we could put it on the Town website.

Ms. Sherwin said that they all are publicly available but she could get that information posted to the website.

Ms. Bennett said that the other piece was regarding additional information in the footnote: "The warrant article shall also include the number of building permits issued for new dwelling units compared to the number of building permits allocated over the previous three years as a point of reference for voters. §29-5(b)(3)" She added that she just thinks this is information that needs to be added and thinks we could have staff fill that in because it isn't germane to our decision.

Ms. Sherwin agreed that that could be added.

Mr. Lentz suggested that we could use the overview that Ms. Sherwin wrote, which incorporates the number of growth permits issued over the past four years.

The PB agreed by consensus that the years 2016, 2017, 2018, and 2019 (to-date) should be included as a graph in the footnote and that the addition is not substantive but historical data.

## **B. ADULT USE DRAFT ORDINANCES**

Mr. Lentz said that we had some feedback and Ms. Sherwin updated everything.

Ms. Sherwin said that all the updates were based on feedback from the SB as well as the Town attorney. She added that there was a formatting issue in both 33-190 and Chapter 11 that she corrected, crossed out references to 'medical marijuana' (cross out 'products', as well; capitalize marijuana). She said that the SB requested the number of days to hold a public hearing be changed from 14 to 30; that the SB is considering changing the ordinance regarding establishments that serve alcohol to 30 days, as well. She added that the other change was to §45-495 (minimum required number of parking spaces) just to reference that Note (9) includes non-profit medical marijuana, as well as adult use marijuana, establishments.

Ms. Horner asked if that wasn't a total change from what we decided, as a Board, to do.

Ms. Sherwin said that this does not conflict with that footnote.

Ms. Horner said that she thought we were doing parking as retail.

The PB agreed.

Ms. Lemire quoted Ms. Horner from the July 9 minutes: "*Ms. Horner said that, from a previous discussion, we were going to add Marijuana Establishments under Site Plan Review with Note 21 (for parking), which will reference 33-190.*"

Ms. Horner said that, in the Eliot Code (33-190), Line 14, it says, "*All Marijuana Establishments shall comply with the parking requirements of section 45-495(15).*", which is not on this paper so she doesn't know what it says. She asked if this change adding it to Chapter 11 is in response to a disagreement with adding it to (15) or was it just an oversight.

Mr. Lentz said that he thought it was just an oversight.

Mr. Cieleuszko read §45-495(15): "*Adequate spaces shall be provided to accommodate customers, patrons, and employees for permitted uses not listed above.*"

Ms. Horner said that we were putting it there so that we could talk about parking with the applicant to work with them on what they were doing; that if you are a processing plant, you don't need as much parking as if you are a store.

Mr. Lentz said that he thinks that might be the point they were trying to clear up.

Mr. Cieleuszko said that the discussion at the time was that medical marijuana was a one-person-in, one-person-out, very limited and, now, retail is going to be down Route 236 and will look like a fair is going on, at least to start.

Ms. Bennett said that there are other marijuana establishments that might not be retail so that's why they were talking about slotting it into this so that we could respond to the actual.

Ms. Horner asked who made that recommendation.

Ms. Sherwin said the attorney.

Ms. Horner said that she disagrees with it and wants to keep the way we have it.

The PB agreed to keep the reference to §45-495(15) in 33-190.

Ms. Horner asked for the footnote, again, that was the discrepancy that we just changed; that she doesn't have a copy of the Land Use Table with the footnote and then what the footnote is.

Ms. Sherwin said that it says, "Must conform to the requirements of 33-190."

Ms. Horner asked if they didn't have to have that footnote there because that was a way for us to reference that entire chapter for somebody who is looking at the Land Use; isn't that why we have that on there. She added that, in her opinion, she doesn't think that footnote is just referencing the parking.

Ms. Sherwin said that it isn't; that it's referencing the entire document.

Ms. Bennett said that she will go to the Table of Land Use section, go find Marijuana Establishments and, then, she'll go to 33-190.

Ms. Horner asked if we didn't just say we were going to get rid of the footnote.

Mr. Lentz said no, we're just changing it.

Ms. Horner said that the Land Use Table is staying as it is as was just described.

The PB agreed.

Ms. Sherwin said that she would make the additional corrections.

## **ITEM 8 – NEW BUSINESS**

**A. 495 Harold L. Dow Highway (Map 53/Lot 6) #PB19-8 – Site Plan Amendment – Application is proposing to replace the structure lost in fire with a 32,000 square-foot greenhouse facility.**

Attorney Rines and Mr. Hughes Pope were present for this application.

**Received: July 2, 2019**

**1<sup>st</sup> Heard: August 6, 2019**

**Public Hearing: \_\_\_\_\_**

**2<sup>nd</sup> Hearing: \_\_\_\_\_**

**Site Walk: \_\_\_\_\_**

**Approval: \_\_\_\_\_, 2019**

Attorney Rines said that we discussed, in our cover letter, how we lost our main cultivation facility; that we had always planned a larger facility and now that we have some land that's partially improved, we feel we have an opportunity to increase the capacity of our business and accelerate our timetable. He added that that involves hiring more local people and us improving that part of Route 236. He said that we feel this is an amendment to the previously-approved site plan because, although it is a structural change – a different structure – we aren't changing a pre-existing structure; that we have to build a new structure so this is a way for us to grab the silver lining out of the cloud of the fire. He asked if the PB had any questions, saying that we wanted to get a feel for what the PB is thinking about this project.

Mr. Cieleuszko said that he read the letter as saying you are going to repair or replace the old building plus add a new building.

Attorney Rines said that it is on the same site; that it's one building.

Mr. Cieleuszko asked if, at full capacity, this changes the applicant's tier level with the State.

Attorney Rines said that this is a medical facility so, at this point, we don't use tiers.

Mr. Cieleszko said that the applicant is limited by plant count and capped on that by State law, asking if they haven't met that maximum, yet; that you don't have to go back to the State for a new license.

Attorney Rines said no, not for medical. He clarified that, on the plan, you can see that we were planning two phases but the insurance company still won't let us take down that building; that they are still doing their forensic investigation. He added that what we are proposing is basically half the building, at first, on the right-hand side of the property and, then, we would add a second phase, probably later on this year.

Mr. Cieleszko said that that second phase is going to overlap the existing burned-out building.

Attorney Rines said that was correct.

Mr. Cieleszko said that the one you are adding is not going to change your capacity.

Attorney Rines said that the capacity is limited by how much we can grow; that we are limited to 120 vegetative plants and 60 flowering plants at this time; that because there are two caregivers, we can actually grow 72 personal flowering plants that can be grown there, too, so we're capped.

Mr. Cieleszko said that he was thinking you aren't going to be able to use all the space that you have unless you go for something new.

Attorney Rines said that, initially, that's correct.

Mr. Cieleszko said that, once you reach that new threshold, either through retail or whatever thing comes down the pike, you are going to have to come back to us.

Attorney Rines said yes.

Mr. Cieleszko said that your clientele is not going to grow under your present license.

Attorney Rines said that it's certainly not adult use market growth but we are growing.

Mr. Cieleszko said that, as a caregiver, you are limited to how many people you can serve.

Attorney Rines said no; that we can have many clients. He clarified that, at one point, there was a five-patient count, explaining how people were getting around that; that in this recent bill, the State rolled back that requirement; that it's also an effort by the State to foster caregivers and support the caregiver organizations that are existing in the State, and have been for a while, in light of pending changes.

Mr. Cieleszko asked if, now as a matter of process, the dispensary was almost moot.

Attorney Rines said that he wouldn't say it's moot. He explained that one of the reasons he talked about the adult use standards in the letter is because we are building everything to those standards; that we feel like medical is going to be there. He added that a lot of people think that medical cannabis is, because of the nomenclature, the safest you can get; that there are currently no testing requirements in the medical market, it's voluntary testing. He clarified that we plan to meet all the standards across our entire operation in medical and, hopefully one day, adult use and recreational, as well.

Mr. Cieleszko said that he is lost at the difference between a caregiver, where you say you can have as many customers as you can handle, and a dispensary, which he thought was just a few customers coming in.

Attorney Rines said that the size of this facility doesn't change how much we can grow, whether there's always going to be a limitation on how much we can grow.

Mr. Pope clarified, from a gardener's perspective, we are limited by plant count not plant size; that a dispensary is not limited by plant count in that they can have plants for hundreds of thousands of patients; that a caregiver can have hundreds of thousands of patients, conceptually, but they are limited by a plant count, which is 60 plants. He said that a caregiver has to grow plants very large and spend a lot more money and time to propagate these in order to make a living versus flowering thousands of little plants, like the rows of dutch tulips you see in a greenhouse; so, that's really the biggest difference in that a dispensary can grow as many plants as they have patients and a caregiver is limited by plant count. He added that we still aren't doing any of the business that a dispensary is because they are a dispensary and there's a prolific black market and we follow the rules. He explained that we can have as many flowering plants as we may under 2'X2' and, then, up to 120 as large as you want as long as they aren't flowering, and that is how our model works; that we're able to grow very large plants but it takes a long time to get them to that size.

Attorney Rines said it's like a naturopath pharmacy versus a Rite-Aid or Walgreens; that there are lower bars of security, and that sort on the caregiver side, although, those are increasing. He added that dispensaries was one of the first entrees into this marketplace; that they had to be non-profit, at first, and had to be very hardened, almost like a bank; that they've relaxed those and offered cottage industry in the form of the caregivers.

Mr. Pope said that they've also changed laws allowing caregivers to wholesale more to dispensaries and other caregiver entities in a way to capture more revenue to the State; that they realized that caregivers were producing more than they could sell and, so, said that we can wholesale 50% of our annual yield and, in just this last year, they've changed it to 75%.

Mr. Cieleszko said that your business model is the same in that people come up, explore what they need, and you supply it there.

Mr. Pope said that the biggest difference for us is the actual size of the facility and it's much more ecologically sound, long-term, because we're going to be utilizing the sun part of the time and artificial lighting the other part of the time; that it also allows us to maintain a higher standard for cleanliness; that we're creating these really cool air locks so you can walk into a room and get blasted with positive pressure, with HEPA filters that suck all the air out and, then afterwards, there is a little mist coming down to kill any road pollen because that's really the biggest issue with this kind of annual, as it doesn't like to be manipulated.

Mr. Cieleuszko said that, regarding the drawings, even though you have structural dimensions on the sales brochures for the building he doesn't see anything on the plan for setbacks or the size of the building actually on the print.

Attorney Rines said that he thought he left a 24X36 copy here; that it is 229'X142'.

Mr. Cieleuszko said that there's a lot of things missing for us; that this is a whole new building and you have to re-do everything.

Attorney Rines showed the setbacks, etc. from his plan.

Mr. Cieleuszko said that this print is not good enough.

The PB agreed.

Mr. Lentz asked Ms. Sherwin if we have requested a full-scale drawing.

Ms. Sherwin said yes, we've sat down with the applicants a few times, now, and she thinks that the site plan that was submitted is lacking necessary information and that's been conveyed; that we need a large-scale plan, as well; that there's no scale bar on this plan, either. She added that, apart from all that, the first thing the PB needs to do is make a determination on whether or not what's being proposed constitutes a substantive change that would impact abutters beyond what has already been approved for the site and, if so, she said that the plan needs to go through the regular site plan review process; that if the PB determines it's not a substantive change, it can approve the amendment right now. She said that that's really what this first step needs to be about.

Mr. Cieleuszko said that, whether it's minor or major, he wouldn't touch it without seeing how it's going to look on a plan.

Ms. Braun said that it does look like a substantial change from what we previously approved – the size of the building, she can't read the drawing, and there is no scale on it.

Mr. Lentz said to Attorney Rines that he had the same question Mr. Cieleuszko started off with; that when he reads the letter of introduction, he is confused, which says: "We propose to build a 32,000 sq. ft. greenhouse facility in place of the current plan and rebuilding the existing 4,500 sq. ft. building lost in the fire."



Attorney Rines clarified that we are taking the burned building down; that he made an error there and apologized. PB members said that they have 26,000 sq. ft. in their copies.

Attorney Rines said that the initial rendering was 26,000 and he actually has another 3-D rendering that he can submit to the Town, now, that he received the day before yesterday.

Ms. Bennett said that, even in the revised copy in the after-the-fact package, we're seeing a greenhouse of either 32,000 sq. ft. or 34,000 sq. ft., that the site plan says more but, then, the letter also says that you're going to rebuild the existing 4,500 sq. ft. building, asking if that's correct.

Attorney Rines said no.

Ms. Bennett said that that needs to be revised, too. She added that on the actual site plan that we are looking at, it looks like a 2,800 sq. ft. storefront...or is that already existing.

Attorney Rines said that that is already existing; that that was a prior approval. He clarified that anything new is highlighted in red.

Mr. Pope said that, prior to the fire, we had a 4,500 sq. ft. building and had plans for two greenhouses across from that; that we still have one greenhouse there and we decided that, with that space, it made more sense for us to work on the land that we have rather than to acquire another property and spending upwards of \$750,000 between the land, clearing the land, doing the site work; that if we can work within this space that's already been cleared, it's already got a 2-degree pitch, the trees are cleared and it's already been approved for medical cultivation and no need for a change in use; that there are a whole lot of reasons that seemed simple in his mind. He added that, as a young business owner in Eliot, he's trying to save as much money as possible and to utilize this property without going elsewhere would be ideal. He discussed his frustration hearing different numbers being used for what it is that we're doing and take accountability for that because he has hired people to help. He said that he would like to ask, as the applicant, for a preliminary approval just so we could get the process going so we could schedule an engineer to come do the things we need to do; that it does cost a lot of money for us to do this and it is going to take quite some time before we get insurance money from the claim. He added that that set us back quite a ways; so, while he recognizes that this is needing modification and specific numbers for the setbacks, it certainly still is being used the same way; that we're not going to be putting anything different in there, just more time into the design so that we don't have 6" trenches for water, we have one foot, just basic things like that.

Mr. Lentz said that his basic point is that he can't ask the PB to make decisions on something we can't see. He added that 2/3rds of this is in red; that if red is new, then 2/3rds of your plan is all brand-new, asking how much of it is the old stuff, is there an overlay, if you tear one down is the new one going to be put over the top of it; that we can't see that.

Mr. Pope said that that's not good, not helpful at all.

Mr. Lentz agreed, saying that there is no way we can make those kinds of decisions and you certainly can't put it in the Town files; that we have to do basic things, anyway, before we can move on.

Ms. Bennett suggested the PB take up this question put to us so we can march through with the applicant of how we feel on whether this is a minor revision to a previously-approved site plan or is this something more than that; that that will send the applicant in one of two directions.

Mr. Cieleuszko said that, in your original approved plan, you have the greenhouse on the side, asking if that's still a functioning greenhouse.

Attorney Rines said yes.

Mr. Cieleuszko asked if that's going away.

Mr. Pope said that we're getting rid of that as soon as we can because we only had permission to set it up temporarily.

Mr. Cieleuszko said that he would lean towards this being a minor change; that the production is not changing, there's going to be more people, more plants, more building space but no process changes. He added that he would be willing to go with a minor change if everything was set up, and everything they've discussed tonight, was drawn out and perfect for our next meeting. He said that we can't okay it today under the present conditions but, at least, he would recommend that it be considered a minor change.

Ms. Bennett said that she's very sympathetic to where the applicant is at with the loss but she is more inclined to think it's not a minor change because of the amount of lot coverage; that currently it is 12% and this proposal brings it up to 39% and that, to her, does trigger an impact on abutters and is a scale issue for her. She added that she is inclined to say we need to do a new site plan review for this; that instead of multiple layers, we have three site plan revisions and that we should start clean, get a new site plan, and review it in its entirety.

Ms. Braun said that she agreed with Ms. Bennett; that she thinks it's a brand-new plan that is bigger and taking up more coverage; that she thinks it's a substantial change and not just a minor adjustment and she would go for a new site plan review.

Ms. Horner said that she agreed with Mr. Cieleuszko, though she does see the other members point; that she did want to encourage the applicant to go back to his application and make sure the numbers are right because it was quoted by Attorney Rines that the new structure is 229'X142' and on the application it is 143'X228'; that it needs to be what you are doing.

Mr. Lentz asked if we had enough information.

Mr. Cieleszko said not enough to okay a minor or major change; that he wouldn't touch it until we saw all the information; that if it is as described, he would judge it as a minor change.

Mr. Lentz said that we want to work with the applicant; that he's been here two or three times but we have to have the information. He added that he would say this is a major change just strictly with the amount of new lot coverage and, if we had a better plan and could look at it, he thinks we'd be a lot better off. He asked if we need to vote on that.

The PB agreed that they did.

**Ms. Bennett moved, second by Ms. Braun, that, in the case of PB19-8, the Planning Board consider the proposal to be a major change to a site plan and necessitates a full site plan review.**

#### DISCUSSION

Mr. Cieleszko said that if the only problem is lot coverage, and he knows we have other problems, but it's just coverage; that he doesn't think we have a great basis in history to use that as the deciding factor on minor or major, and that's his only point. He added that this was not a good presentation and would have been a lot easier if we'd had all this stuff in front of us.

Mr. Lentz said that, when we think of all the detail that we went through with these gentlemen prior, like fumes, lighting, alarm systems, parking just today, can you say any of that is okay right now.

Mr. Cieleszko said that all those still exist in this new plan; all the presentations they gave us, the whole works, he is still being held to the same standards.

Ms. Bennett agreed, but on buildings that don't exist and won't exist on the new site plan.

Mr. Cieleszko said that the burned-down building is what's getting changed and the greenhouse wasn't even part of our presentation; that that was a temporary structure that wasn't part of our deliberations in all the preceding discussions. He explained that he asked about it tonight because he forgot the history of it.

Mr. Pope said that we had a temporary greenhouse and, then, we had permission to take that down and put two, one in its place and one beside it; that it hasn't even been put up yet.

Mr. Cieleszko said that those are off the table, now, and only this new structure is going to be it.

Mr. Pope said that it's essentially the same thing, it's just more gutter-connected.

Mr. Cieleszko said that all the standards are being held to the original okay, other than the size of the building and, if he presented that at the next meeting, he thinks it would still be a minor thing, if he put it together as such.

Ms. Horner said that she still agrees with Mr. Cieleszko; that she thinks he's right because the change from 12.7% to 39.2% is 26%; that maybe if it was 51%, then it would be more but 26% is a quarter bigger so, to her, that's not big.

Mr. Lentz said that this Board has struggled more tonight than he's seen in the last year on what should be a simple decision; that he's sorry but, as far as he's concerned, you need to come back with more information; that we need to be sure of what we're agreeing to, and we want to agree with you and we want to help you.

Mr. Pope thanked Mr. Lentz and was frustrated with the fact that there are things that aren't matching up.

Ms. Horner said that it isn't a lot, thought, it's an overlay, clear setbacks, and a scale bar.

Ms. Bennett added existing conditions and proposed conditions.

Mr. Cieleszko suggested postponing this decision because, one way or the other, they have to come back with the right stuff; if we could re-look at this at a future meeting and really see; that we've just reamed them, let them come back with something really good and see if we feel more comfortable with it. He added that everything, like the filtration system, is going to be exactly what they've already been through other than the size of the building.

Mr. Lentz said that he thinks that's a good idea. He added that, in that packet you have in front of you, is a checklist with all the site plan review submission requirements; that he would like the applicant to go through that to look at it and demonstrate what you believe you need.

Attorney Rines said that the intent in providing the PB with the history of the last two site plans was to give the PB that information but we can certainly do that.

Mr. Lentz said that he is willing to go along with Mr. Cieleszko's proposal.

Ms. Horner said that all this is really 'previous application', 'previous application'.

Mr. Lentz added that the applicant knows whether it's new or from a previous application, and that's all we're asking; that we can't see it on the drawing. He added that, even if he looks at §33-128 Construction Drawings sufficient to allow the code enforcement officer to go out there and make a decision; that he can't go there with this.

Attorney Rines said that those are still being rendered now.

DISCUSSION ENDED

**Ms. Bennett withdrew her motion. Ms. Braun seconded the withdrawal. The motion is withdrawn.**

#### **ITEM 9 – CORRESPONDENCE**

**A. Correspondence received from Donna Knox regarding Proposed Expansion of Spinney Creek Shellfish operation.**

Mr. Lentz said that you have correspondence in your packets that he insisted the members read; that he is committee to the lawyer not to discuss this. He added that we will take that option on it, there will be no discussion and no decision; that he wanted it in there for PB member information.


#### **ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING**

Public Hearing for Wisteria Lane  
Open Space discussion  
PB19-8  
Public Hearing for draft warrant article for the growth permit number  
New shoreland application

The next regular Planning Board Meeting is scheduled for August 20, 2019 at 7PM.

#### **ITEM 11 – ADJOURN**

There was a motion and a second to adjourn the meeting at 8:22 PM.

  
Dennis Lentz, Chair  
Date approved: 08/20/2019

Respectfully submitted,

Ellen Lemire, Recording Secretary