

**ITEM 1 - ROLL CALL**

Present: Dennis Lentz - Chairman, Ed Cieleszko, Melissa Horner, Bill Olsen – Alternate.

Also Present: David Galbraith, Planner.

Absent: Christine Bennett (excused), Carmela Braun (excused).

Voting members: Dennis Lentz, Ed Cieleszko, Melissa Horner and Bill Olsen - Alternate.

NOTE: The Chair appointed Mr. Olsen as a voting member for tonight's meeting.

**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**

Ms. Horner moved, second by Mr. Olsen, to approve the minutes of November 19, 2019, as amended.

**VOTE**

**3-1 (Mr. Cieleszko abstained)**

**Motion approved**

Mr. Cieleszko moved, second by Ms. Horner, to approve the minutes of December 3, 2019, as written.

**VOTE**

**3-1 (Mr. Olsen abstained)**

**Motion approved**

**ITEM 6 - PUBLIC HEARING**

**A. 511 River Road (Map 32/Lot 20) PB19-20: Shoreland Zoning Permit Application for a 4'X8' landing, 4'X16' stairway access, 4'X35' fixed pier, 3'X40' gangway, and 10'X20' float.**

**Received: October 10, 2019**

**1<sup>st</sup> Heard: November 19, 2019**

**Public Hearing: December 17, 2019**

**2<sup>nd</sup> Hearing: December 17, 2019**

**Site Walk: N/A**

**Approval: December 17, 2019**

Mr. (Steve) Riker, Ambit Engineering, was present for this application.

**7:07 PM Public Hearing opened.**

Mr. Riker summarized the Shoreland application:

Tidal docking structure

- 4'X8' landing, 4'X16' stairway access, 4'X35' fixed pier, 3'X40' gangway, and 10'X20' float
- Secured by heliac moorings and chains
- Fixed pier supported by four sets of piles
- Structure depicted on Sheet C-1
- Dock strategically placed along the shoreline to avoid salt marsh areas associated with the Piscataqua River
- Dock also shown on Sheet D-1
  - Plan/profile view
  - Based on tidal datum
  - Details for proposed float skids
- Copy of Maine DEP application accepted for processing November 1, 2019
  - Approval date by January 30, 2020
- Army Corps of Engineers approval received
- Per the Town of Eliot, reflectors are shown on Sheet C-1, to include Note #13

There were no public in attendance.

**7:11 PM Public Hearing closed.**

Mr. Cieleuszko moved, second by Mr. Olsen, that the Planning Board approve the Shoreland Zoning Permit Application PB19-20 for a dock and float at 511 River Road with 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. The Maine DEP permit approval shall be submitted to the Planning Department 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. Target Deadlines for June Ballot**

Mr. Lentz said that Ms. Goodwin made this document with the target deadlines for the June ballot. I'm not sure we will have anything. We did do the definitions.

Ms. Horner said that I would like to prepare initial submission for review and asked who that would go to for December 3<sup>rd</sup>.

Mr. Galbraith said that it's sent out to the Harbor Master, Code Enforcement Officer, etc.

Ms. Horner suggested we could submit the definitions we have for June and continue to work on the very few that we don't have; that that's a continued conversation.

Mr. Lentz agreed that that is what we should do. I think, when we last met, I asked that they be updated by Ms. Horner so that we have them and I think that Mr. Galbraith was going to prepare them for the next step.

Ms. Horner said that she would update the work and send it to Mr. Galbraith.

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Mr. Galbraith said that Ms. Goodwin put together a draft agenda for January 7<sup>th</sup>.

Mr. Lentz said that, going into the new year and winding down the old one, I made myself a to-do list and, basically, it's items we have talked about and not finished yet – Open Space standards. Mr. Olsen was going to work on that and he asked for that to be

put on the January 7<sup>th</sup> agenda. There was some clarification on the Medical Marijuana – uses standards consistent with State regulations – and that’s something that Ms. Sherwin had given us before she left and we didn’t go any further with that. Shoreland Zoning issues - Chapter 44 – he isn’t sure we finished that. We are going to have to amend the ordinance for Agritourism, which was one of Ms. Sherwin’s suggestions. Additionally, she handed me one on ‘property maintenance’ – welfare, not allowing places to look like a junkyard, etc. – to look at that and see where we are with that ordinance. Solar arrays were also on that list – standards for solar arrays. There was the Animal Control Ordinance scheduled for January 7<sup>th</sup> and ADU’s scheduled for February 4<sup>th</sup>.

## **ITEM 9 – CORRESPONDENCE**

### **A. Internal Correspondence received regarding Marijuana Ordinance.**

Mr. Galbraith said that Ms. Bishop and I have been going around and around with this. The PB recently approved a medical marijuana application and they are now looking to go into the next lot over. They went to the Zoning Board (BOA) first. It took us awhile to explain that it is property-specific if they get a variance. But another problem is that the way the ordinance is written you measure the 500 feet from the roadway – any public facility – and I don’t think that was the intent. The setback is measured 500 feet from the right-of-way, if I’m explaining that correctly.

Mr. Cieleuszko queried a setback to a public facility.

Mr. Galbraith said it can’t be near any schools, places of worship, any public facilities. One of the ones I have talked to recently was the Transfer Station and that requires that you be set back from it also. Anything that’s got the Town on it...it’s just very difficult because how do you make that setback as you can’t meet it the way the ordinance is written. We just want to clarify that.

Mr. Cieleuszko said that I don’t know why it can’t be met because it has been met through going to the BOA. My understanding is that they got a waiver because they were too close to a little jut of land that came out from behind the Transfer Station and was near them. So, that was addressed and done.

Mr. Galbraith added that they are now trying to open a new one right next door. So, now, they have to go to the Zoning Board.

Mr. Cieleuszko said that I don’t see a problem with it.

Mr. Galbraith said that we had a fairly lengthy discussion with them earlier.

Mr. Lentz said that we have had some confusion with the term ‘public facility’ I think since Day One didn’t we.

Mr. Cieleszko said that we fixed it in the definition but it hasn't been fixed in the Medical [Marijuana Ordinance].

Mr. Lentz agreed that, in the Retail Marijuana, we fixed that. The Medical Marijuana Ordinance was done in 2016 and we didn't want to touch it. The 'public facility' is what we went to instead of 'roads'. It was 'roads' before.

Mr. Cieleszko said that any road is a public facility, according to the old definition, so we modified the definition in regard to Recreational Marijuana. Medical Marijuana has been successful in asking for a waiver. I'm not sure if they have a point, or not. I don't know if that's in our jurisdiction. From what I understand they came to us for another Medical Marijuana addition to what they're doing now, so, maybe that is covered. I'm not sure and it will be up to their attorneys to figure out.

Mr. Galbraith said that their attorneys are meeting with us soon.

Mr. Cieleszko said that I'm not sure we should even be discussing that one because that would be an ongoing case. They're just adding to their existing plan.

Mr. Galbraith said that they have purchased the property next door and they want to put a growing station in there.

The PB agreed that they should not talk about this, in particular, but it was okay to understand [the general implications].

Mr. Cieleszko said that I think we've worked this out and it is doable for people, or it has been. Until we see otherwise, I don't see any need to pursue it.

Ms. Horner said my position has always been, forever, that our ordinances will protect us from a lot of things and, so, I don't think it's wise to start changing those things and have some unintended consequences to accommodate a niche.

Mr. Lentz said that I'm not opposed to that. He asked a question for clarification, as I can't remember. When we talk about setbacks, are we measuring from the boundary line or are we measuring from the building.

Mr. Galbraith said that we are measuring from the property line. The building that they are looking to go into is closer than 500 feet from the street.

Ms. Horner said that the definition...this memo says that the setback from a facility has to be measured from the closest point of the actual building to the property line of the road. Somebody came before us, initially, for a Medical Marijuana establishment and we were measuring it from the closest point of the building to the property line of that jutted-out property line of the Transfer Station. So, it's not even measured from the back corner of the building and give yourself another 100 feet because 100 feet of your building is in front of you. That's my understanding.

Mr. Cieleuszko said nor was it the property line of the facility to the property line of the public facility. It was building structure – the medical marijuana structure and the property line of the public facility (abutter). Still, I think it's clear enough and I see no problem with what we've done.

Mr. Lentz asked Mr. Galbraith if the expectation was that we were going to change this.

Mr. Galbraith said that if you feel it's not necessary, we don't have to. We keep banging up against this and we always measure setbacks from the property line – front, rear, side, everything.

Ms. Horner said that, if I were building a garage, it would be the wall of my garage to the property line and that's how I see this. The recreational marijuana facility is my garage to the abutter's property line is the setback.

Mr. Galbraith said correct. He asked if you want us to measure from the property line on the roadway to the building.

Mr. Cieleuszko said that we want you to follow the ordinance. It is pretty clear in there, I think, once you look it up.

Mr. Galbraith said okay, I'll do some research on it.

Ms. Horner said that we changed the definition for public facility and deleted roads, so, this might be working itself out in June, anyway.

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

Mr. Olsen will not be here for the January 21<sup>st</sup> meeting.

Ms. Horner suggested, because an applicant came in recently with a lot that was in two different zones, we might consider how to govern that because I'm not sure we have anything that speaks to that. Berwick happens to have one and read the ordinance: "*4.3 Rules Governing When One Lot is Located in Two Different Districts. Except the boundaries of the overlay districts, the following shall control when a lot is divided by a district boundary. A. On lots of two acres or less in area, the lot shall be used as if the entire lot were in the district which comprises the larger portion. B. On lots larger than two acres, the district regulations shall be followed in each portion*". I thought that was interesting and very clear.

Mr. Cieleuszko said that I think our ordinance addresses that but I can't find it. I would like to pursue that because I think that's a good idea.


The Chair thanked the PB members for all their work this year.



The next regular Planning Board Meeting is scheduled for January 7, 2020 at 7PM.

**ITEM 11 – ADJOURN**

There was a motion and a second to adjourn the meeting at 7:33 PM.

  
Dennis Lentz, Chair  
Date approved: 6/2/07/2020

**Respectfully submitted,**

**Ellen Lemire, Recording Secretary**