

ITEM 1 - ROLL CALL

Present: Dennis Lentz - Chairman, Christine Bennett, Ed Cieleszko, Melissa Horner, and Casey Snyder - Alternate.

Also Present: Lee Jay Feldman, Interim Planner.

Absent: Larry Bouchard (excused).

Voting members: Dennis Lentz, Christine Bennett, Ed Cieleszko, Melissa Horner, and Casey Snyder – Alternate (appointed).

Note: Video is on.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION

There was no public input.

ITEM 5 – OLD BUSINESS

a) 13 Bittersweet Lane (Map 22/Lot 6) & 112 Beech Road (Map 22/Lot 6-4): PB18-11 – Property Line Revision (supporting application materials distributed at the 08/28/18 PB meeting) – tabled from 08/28/2018 PB Meeting.

Received: August 14, 2018

1st Heard: September 18, 2018

Public Hearing: N/A

Site Walk: Not held.

Approval: September 18, 2018

Seth Herbold and John Craig were present for this application.

Mr. Herbold said that we had our house built about 20 years ago; that at the time, when we laid out the building of the house, there were flags in the trees where we thought the property line was and sited the house accordingly. He added that they went 10 years, or so, thinking that was correct; that his neighbor, Mr. Craig, approached him at one point to suggest Mr. Herbold may have a problem with the property line being a little closer to Mr. Herbold's house than he thought; that Mr. Craig put up a line where he thought the property line was and we just kind of left it like that another 6 to 8 years. He said that it always bothered him because it basically cut his dooryard in a diagonal line across where he would turn his cars around and his well, that Mr. Craig thought and turned out to be true, was actually on the other side of the line. He added that he approached Mr. Craig

about doing a little land swap where he could get that little piece of property and his well on his own property and he would swap with Mr. Craig what he thought he would like to have, which Mr. Craig did and agreed to. He said that he hired Frank Emery, surveyor, to come over and he confirmed everything with the existing lot line and then drew up a proposal for the land swap that he and Mr. Craig had come up with. He added that he talked to the Town Planner about this and that she didn't think this would be a big deal; that she explained the whole process. He clarified that what the PB sees on the plan, the red lines, is the swap they are hoping to get approved.

Mr. Lentz asked if it was correct that we have a sign-off from both parties and you are both in agreement.

Both Mr. Herbold and Mr. Craig said yes.

Mr. Cieleuszko discussed the ROW that gets to Mr. Herbold's property and his neighbor at 14 Bittersweet Lane; that that ROW is around 57 feet wide and, in the Suburban Zone, it is 150 feet of frontage; that his frontage is going to go down from being wrong before. He asked if that ROW was Mr. Herbold's property.

Mr. Herbold said that that is his neighbor's ROW.

Mr. Cieleuszko said that Mr. Herbold's frontage is 107'; that when you lose 20 feet...

Mr. Herbold clarified that it is around 8 feet.

Mr. Feldman confirmed that it is 8.65 feet. He said that, as he discussed this with the Town Planner, the way it is set up should be fine, pretty straightforward and simple at this point for this to occur.

Mr. Cieleuszko asked if Mr. Herbold's front lot line is going to be less than it was before.

Mr. Feldman said yes; that it will be 8.65 feet less than it was before.

Mr. Cieleuszko said that, in the Suburban Zone, the applicant is already shy, as it is 150 feet for street frontage, or frontage.

Mr. Feldman said yes; that he did not discuss that particular issue with the Town Planner and he is not up-to-speed on what exactly they can do, here, for that.

Mr. Cieleuszko said that a subdivision can't have back lots; that it has to be looked at as a regular lot.

Mr. Herbold said that he does not believe Bittersweet Lane is a subdivision; that he thinks that Mr. Craig, on Beech Road, is part of a subdivision.

Mr. Cieleszko said that this whole lot line change has to do with a subdivision; that your district is still Suburban so you could be a back lot.

Mr. Herbold said that that's what he...he doesn't know enough about it but he's pretty sure we are not considered part of a subdivision. He added that he was aware of that lot line issue to some extent but, to be honest with you, it didn't make any sense to him. He said that, to him, Bittersweet Lane is a private driveway for two houses and to have 150 feet of frontage on a driveway, to him, seems too unrealistic; that he has twice as much frontage on Bittersweet Lane than his neighbor does.

Mr. Feldman said that, if you look at the original subdivision in the packet, the parcel that we're looking at was not part of the subdivision; that it's the very last to the west.

Mr. Cieleszko said that the Raeside Homes ends at Lot #4.

Mr. Feldman said that that was correct; that the only reason this is back is because Lot #4 was part of the subdivision and that's the lot line we're adjusting.

Mr. Snyder and Ms. Horner had no questions at this time.

Mr. Cieleszko asked if the applicants were aware that this could affect the value of your properties a little bit; that these are funky little lines; that legalities are one thing but what's best for everybody is a good thing to be really sure of, of the lots, themselves.

Mr. Feldman said that he couldn't comment on that but the one good thing that's occurring, here, is you are taking a well that's not on that property and putting it on the property where it belongs; so, that should solidify the value and, then, the swap that's occurring in order to make that happen is a net zero change.

Ms. Bennett said that it was her understanding that this was a division of a private property into two house lots in 2001 with an appurtenant ROW to one lot to benefit Mr. Herbold. She added that, in that 2001 division, there was a creation of two non-conforming lots in terms of frontage required in this district.

Mr. Herbold said that he didn't think that was right; that he believes that lot changed in 2006.

Ms. Bennett said that, addressing Mr. Feldman and regarding grandfathering of lots, they are a lot of record, currently non-conforming to our current ordinance, and she believes the PB is constrained to not making a non-conforming lot any more non-conforming.

Mr. Feldman said that that was correct.

Ms. Bennett said that that 8 feet of change along the frontage line makes that frontage less conforming.

Mr. Herbold asked if the fact that these may be, or are, back lots affect that; that the term 'backlot' was always thrown around in our house; that he remembers that from when we were building and he wonders if that affects this.

Ms. Bennett said that that was a good question.

Mr. Feldman said that he could not answer that off the top of his head.

Mr. Cieleuszko said that back lots don't have the same requirements.

Ms. Bennett said that the original parcel had 57.8 feet of frontage and, then, they were allowed to make a division into two because they had adequate acreage but both have inadequate frontage.

Mr. Craig said that his is not one of the back lots; that he is out on Beech Road and just doesn't want any confusion about the two lots in question, here, for the land swap – they are not both back lots. He added that his is part of the subdivision on Beech Road and it has ample frontage.

Mr. Lentz asked for the position of the PB.

Mr. Cieleuszko said that he is comfortable with this.

Ms. Horner agreed that she was also comfortable with the swap.

Mr. Casey agreed with Mr. Cieleuszko and Ms. Horner.

Ms. Bennett said that, in theory, she thinks it's a simple lot line adjustment but she is concerned that we are making a non-conforming lot more non-conforming. She added that, on balance, maybe not, because the applicant is proposing to now fully appropriate his well and that little piece is giving a little more setback to his structures. She said that she wondered why this came to us.

Mr. Feldman said that, because the other lot is part of a previous subdivision, the PB has to review.

Mr. Cieleuszko moved, second by Ms. Horner, that the Planning Board accept the lot line changes presented under PB18-11, as drawn on the "Preliminary Copy Boundary Survey for April & Seth Herbold 13 Bittersweet Lane Eliot, Maine", 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.

DISCUSSION

Mr. Cieleuszko said that he thought there was something we had to establish that we're not okaying something; that he is looking it up in the Town Planner's notes. He added that this is a paragraph describing our lack of culpability.

Mr. Lentz asked if he was looking for the reason for PB review, if so, it's on page 1 at the very bottom.

Mr. Cieleuszko read §41-183, "(a) *The approval by the planning board of a final plan shall not be deemed to constitute or be evidence of any acceptance by the town of any street, easement or other dedication of land or improvements shown on such plan.*" He said that he would leave that out as that was not what he was looking for.

Mr. Feldman suggested" b) *The planning board shall endorse the final plan with appropriate notes to this effect. The planning board may also require the filing of a written agreement between the subdivider and the municipal officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment and maintenance of any open areas or improvements.*"

Mr. Cieleuszko said that, after considering, he thinks if they register the deed changes with the county and bring a copy of that back to the Town, then we're fine.

Mr. Feldman said that, once it is recorded at the Registry, it will come back to the Town Clerk.

DISCUSSION ENDED

VOTE

5-0

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 6 – NEW BUSINESS

a) 11 Sanborn Lane (Map 23/Lot 14): PB18-12 – Sketch Plan Review for the following: Proposed 3,597 sq. ft. commercial manufacturing building, three 360 sq. ft. buildings and associated site improvements.

Received: September 4, 2018

1st Heard: September 18, 2018

Public Hearing: _____, 2018

2nd Hearing: _____, 2018

Site Walk: October 16, 2018. (to be held)

Approval: _____, 2018

Tom Harmon, P.E., Civil Consultants, and Frank Fortunato, applicant, were present for this application.

Mr. Cieleuszko said that he doesn't have any financial interest in this but he is best friends with the owner of Lot #1; that he believes he will treat this fairly but he would leave it up to the PB.

Mr. Lentz asked the PB members if they had any problem with Mr. Cieleuszko participating.

The PB members agreed that Mr. Cieleuszko could hear this application.

Mr. Harmon said that we have a plan of improvements for what was Mr. Sanborn's property; that it's been turned into a condominium property that has four units and has been recorded. He added that the applicant plans to purchase Units #2, #3, and #4; that what is proposed with Unit #4 is to turn the slab foundation (4 ½- to 5-foot frost wall) into a 2- to 2½-story 3,597 square-foot building; that the lot has two Maine DOT-approved entrances, with the one to the right having been improved and we are proposing to improve the other entrance to the left and set it up so that there can be a loading dock. He said that there would need to be some work done associated with the loading dock, which would go down, so there would be a 4-foot elevation between the bottom of the loading dock and the actual dock. He said that we will also be putting in parking spaces with a driveway to them in front of the property and we will be connecting to the existing driveway, shown as 'common area' over Unit #1. He added that it is set up so that a tractor trailer can drive in to the second entrance (left), back in to the loading dock, and drive out again; that the other thing is that, with the loading dock coming down approximately 4 feet, there is enough pitch from that point back out to the road so that there would be positive drainage out of the loading dock; that there could be a flood

situation there but it is not a public entrance so that would not be an issue. He explained that we have started to do the engineering; that we do like to come in with these as a sketch plan to get input from the PB and from the Town on exactly what we're doing before we get too far into the project. Pointing to an area on the plan, he said that he doesn't think the PB has it on the plan that was submitted but we are proposing a depression 'here', which will be at the same elevation as the loading dock, and that will be stormwater detention; that that would take care of the additional stormwater that will come from the impervious surfaces. He said that we will have a pipe coming out to the ditch line and that pipe will have a restricter on it so, if we get a high flow, it will restrict those flows and slowly let them go. He added that the property is serviced by public water, serviced by gas, and does have a septic system, 'here', that will service all these units; that we will be doing some work in 'this' area to 'this' pump station to get the effluent from his sewerage back up to 'this'. He said that anything that's planned for this property, now, is a very low use and very low waste-producer, so the septic system can adequately handle it; that we can easily double the capacity, if we need to, of the septic system by putting some treatment between the septic tank and the disposal area. He said that, when responses came back, a response from the PW Director said that if it changed ownership and was within 250 feet of a public sewer, it was necessary to connect to the public sewer; that out in the street there is a force main and is not public sewer, but a private force main, and we do not feel that in the ordinance where it says that you have to connect to a public sewer if you are within 250 feet applies to this particular property. He added that Mr. Sanborn had reserved the right to connect to the force main but the reason he did that is because this is a good commercial property and there was a possibility that someone would want to put a restaurant on it, or, he knows that once upon a time one of the hospitals was looking at this as an urgent care facility; that the septic system would not handle that type of use. He said that that would need to be connected and Mr. Sanborn was willing to pay the freight to get connected to that force main. He added that, in the review, he saw that there was some concern about the condition of the slab and he would say that, as the applicant moves forward with his project, he has to come in to the CEO to get a building permit and the condition of that slab and his building plan are in the purview of the CEO with something that shows what the project is going to be and what's going to be on here, and that's the way we're approaching that. He said that he knows the applicant is having our structural people in the office take a look at it that will be doing this building; that they've already taken a quick look at it and have some questions about what they need to be doing to make sure the tests meet code; that he believes that is the building official's duty, not necessarily the PB. He said that his plan has 2-foot contours on it and we will be providing a landscaping plan for along the front of the building; that we don't anticipate very much earth movement as pretty much everything out there is at grade; that once upon a time these were pretty heavy soils across the front of this property but Mr. Sanborn got a permit from the DEP to grade the lot out, as there were some wetlands on the front of it, so everything here, now, is conforming. He said that the 2-story building will have a small office and the rest of it will be warehousing, manufacturing, for the applicant to put together parts he uses in his business.

Mr. Fortunato said that the septic system was put in about 18 years ago; that it was inspected by Sturgeon Creek and is in tip-top shape; that it should go 20 or 30 years, easily; that we had Attar Engineering look at the foundation, as well.

Mr. Snyder had no questions at this time.

Ms. Horner said that she thinks that, in the application, he said that the things that will be provided – the sign configuration, the landscaping plan – that obviously needs to happen; that they have already kind of pointed out that they don't have those things but she thinks we'll need those sooner than later.

Mr. Lentz said that those are some of the things we would need for the site plan

Ms. Bennett asked if any of these condominium units were in a flood zone.

Mr. Harmon said that there is a line on the plan that shows where the flood zone is.

Mr. Feldman clarified for the PB that the dashed line to the right side of the property represented the flood zone boundary; that it kind of follows the wetland location. He added that no buildings are affected.

Ms. Bennett asked if the private sewer reserve rights made by Mr. Sanborn conveyed to the new owners of these units.

Mr. Harmon said that he would assume that but he wasn't sure.

Mr. Fortunato agreed; that Mr. Sanborn paid money, in advance, for permission to tap into it; so, he thinks that that's a binding contract.

Ms. Bennett said that it may not affect the applicants' proposal but it could be pertinent to future development on this site.

Mr. Fortunato said that we do have a document that there was a mutual agreement between Mr. Sanborn and the owners of the private force main; that he could provide that to the PB.

Ms. Bennett agreed that would be good for the property file.

Mr. Cieleuszko asked, regarding the fill that Mr. Sanborn did earlier around that structure, when the applicant is digging down to make that loading dock approach and then swale it right into the ditch at the front of the yard, you will be removing about 3 to 4 feet.

Mr. Harmon said that, yes, we will be digging right through that and removing 3 to 4 feet of fill.

Mr. Cieleuszko asked if the current ditch is the original level from way back when.

Mr. Harmon said no; that he believes the ditch is a little lower than the original level but it is fairly close to it.

Mr. Cieleszko asked if he was getting back down to near the bottom layer.

Mr. Harmon said yes, the original ground.

Mr. Cieleszko said that Mr. Harmon said that the loading dock approach is going to drain into the front, asking if that would be over impervious surface.

Mr. Harmon explained that we will be coming out the bottom of the loading dock and there will be a drain (piping) we run out to the ditch line, an underdrain.

Mr. Cieleszko asked if there were going to be separate lines from the catch basin further up beyond the building or are they tied together, for the parking lot.

Mr. Harmon said that he assumed that we would grade this out so it would drain slowly out to the front; that this lot is pretty much graded out, now, so he thinks we'll probably follow those same grade lines, with the exception of the loading dock.

Mr. Cieleszko clarified that he is going to dig a hole that's big enough for just the loading dock.

Mr. Harmon said that that was correct. He added that we are also planning to do a little bit of detention next to the loading dock to hold up the stormwater if we get a peak flow, as required by the Town ordinance.

Mr. Cieleszko asked if that was separated from the loading dock approach.

Mr. Harmon said that he doesn't think we've worked that out, yet; that his belief is that that area will have a flow back and forth and the loading dock will be all one depression.

Mr. Cieleszko said, regarding accessory structures, that the applicant is envisioning accessory structures on Unit #3; that they are not allowed in the C/I Zone.

Mr. Harmon said that he would have to read the ordinance to look at that and see.

Mr. Cieleszko said that he just wanted to make sure we're all on the same page when the applicant is designing this.

Mr. Harmon said that that's why we're in here with a sketch plan.

Mr. Cieleszko paused to research the ordinance language.

Mr. Lentz said that we will be discussing parking availability; that there was a list that Ms. Prescott sent to Mr. Harmon the 14th that he believes sums up what we talked about today; that there is a list of requirements. He asked Mr. Harmon, regarding the sewer issue, if he made a note of that.

Mr. Feldman said that he did and he will ask Ms. Sherwin to talk with Mr. Moulton more about that; that she'll be here tomorrow.

Mr. Cieleuszko said that he was all set on that (accessory use) for now. He added that, regarding the sewer connection, if the applicant is looking for some verification on whether they should be designing to hook in, or not, he would assume they don't have to for a couple of reasons and we might want to have some kind of tentative look at that.

Mr. Lentz said that that was what he was asking Mr. Feldman to look into.

Mr. Feldman said that, with the applicant's submission, the PB would probably want to see any condo association documents come with it, asking for a copy of those.

Ms. Horner asked if we were going to see any construction plans.

Mr. Harmon said that the construction drawings will be for the site; that there will not be construction drawings as they come back to the CEO.

Mr. Feldman said, to clarify, Mr. Harmon will be providing all the grading plans for stormwater, final elevations, etc.

Mr. Harmon said yes, grading plans for the site, all the elevations, all the details about how the catch basin is being built, the trench details for the drain pipe, landscaping.

Mr. Cieleuszko asked what was going to be manufactured.

Mr. Fortunato said that some of you may know that he owns and operates Thermo Dynamics, commercial and industrial HVAC; that we've been on Route 236 for at least 10 years, and in the business for 26 years, and we continue to grow and expand. He added that his lot, now, is only half an acre and we're bulging at the seams. He said that he wanted to clarify the term 'manufacturing'; that we don't manufacture, we service, sell, install, repair, modify HVAC equipment in hospitals, universities, office buildings, and so forth. He added that, sometimes, we bring machinery in that needs to be repaired and bring it back to the building to reinstall it; so, it's not technically manufacturing but that happened to fit the C/I description when we were going through the checklist. He said that we're not really producing things, we're installing and servicing and maintaining; that his intent with the warehouse is to bring that equipment in, store it, bring it elsewhere to repair it, kind of keep the same structural architecture of the existing buildings; that the second floor might store parts and small materials, have an office in there, for two or three people, for shipping and receiving. He said that the existing septic field is more than adequate for the existing properties that are on there and the new one. He added that, with

the grading that seems to be an issue, the land is maybe 10-12 inches and it slopes towards that ditch out towards Route 236; that on the side, we bring the tractor trailers in, slope down, back up so it's an even grade to unload the tractor trailer, then they will pull out, turn around, and go back out. He said that we do not intend to use that main drive that is called the 'common area'; that that is for personal vehicles, UPS vehicles, deliveries, and stuff like that; that any large vehicles will come over 'here' to maintain the intent of the original business park.

Mr. Lentz asked if Mr. Harmon said that that other curb-cut was already there and does that require a permit.

Mr. Harmon said yes, that he already has it.

Mr. Fortunato said that he will supply a copy of the DOT Permit.

Ms. Bennett asked, regarding stormwater, if any of the water on Unit #4 drain onto Unit #3, particularly with this service road.

Mr. Harmon said that that is pretty much graded, now, and we're not really changing those grades.

Ms. Bennett asked if they had contours for Unit #3, as well.

Mr. Harmon said yes.

Ms. Bennett said that she wondered where the stormwater would go from this new road.

Mr. Harmon said that most of it would run back into the drainage pipe; that with anything else, we will try to grade this parking lot right straight out; that if we see that this is going to become a problem, then we'll do a collection and get it back in 'here' and send it back up that way.

Ms. Bennett said that she isn't up-to-speed on condos but she understands the land is in common ownership but the improvements are under private ownership; so, if the changes to Unit #4 necessitates stormwater management on Unit #3, she doesn't clearly know how that's handled.

Mr. Feldman said that that's handled within the condo association; that that's not anything the PB needs to worry about; that relevant to any sign-off or any civil issues, that is their issue and nothing that the PB would get involved with.

Mr. Lentz asked if the PB was far enough along for a site visit.

The PB agreed that they were; that they would like dimensions, contours, and setbacks.

The Site Walk was scheduled for 4PM on October 16th.

Ms. Horner asked about a lighting plan.

Mr. Harmon said that, yes, we would show some lights; that that would be part of the landscaping plan.

There was discussion regarding signage and PB requirements, which is clarified in the site plan checklist.

Mr. Fortunato said that, on October 16th, he would be in Florida, asking if Mr. Harmon and his son (Andrew) could represent him.

Mr. Lentz said yes.

Mr. Feldman said, to cover that, to provide a cover letter saying the applicant gives then authorization to speak on his behalf.

Mr. Fortunato agreed.

ITEM 7 – REVIEW AND APPROVE MINUTES

Ms. Bennett moved, second by Mr. Cieleuszko, to approve the minutes of September 4, 2018, as amended.

VOTE

5-0

Chair concurs

ITEM 8 – CORRESPONDENCE

There was no correspondence.

ITEM 9 – UPDATES

There were no updates.

ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING

By-laws

Workshop with CEO regarding Temporary/Permanent Structures

BOA minutes review

Budget

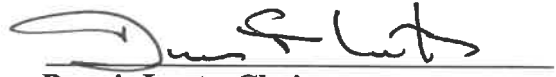
Code references were deferred.

There was discussion regarding video-streaming not being live.

The next regular Planning Board Meeting is scheduled for October 2, 2018 at 7PM.

ITEM 11 – ADJOURN

There was a motion and a second to adjourn the meeting at 8:07 PM.



Dennis Lentz, Chair

Date approved: 10/09/2018

Respectfully submitted,

Ellen Lemire, Recording Secretary