

**ITEM 1 - ROLL CALL**

Present: Steve Beckert – Chairman, Larry Bouchard, Greg Whalen, Dennis Lentz, and Christine Bennett – Alternate.

Also present: Kate Pelletier, Planning Assistant.

Absent: Jeff Duncan (excused).

Voting members: Steve Beckert, Larry Bouchard, Dennis Lentz, Greg Whalen, and Melissa Horner – Alternate.

**ITEM 2 – PLEDGE OF ALLEGIANCE**

**ITEM 3 – MOMENT OF SILENCE**

**ITEM 4 – REVIEW AND APPROVE MINUTES, AS NEEDED**

RECEIVED  
APR 20 2017  
BY: Wendy Rawski,  
Town Clerk

Mr. Lentz moved, second by Mr. Bouchard, to approve the minutes of October 18, 2016, as amended.

**VOTE**  
**4-1 (Mr. Whalen abstained)**  
**Chair votes in the affirmative.**

**ITEM 5 – REVIEW “NOTICE OF DECISION” LETTERS, AS NEEDED**

Notice of Decision letters will be reviewed at the next meeting.

**ITEM 6 – PUBLIC APPLICATIONS OR PLANNING BOARD BUSINESS TO BE CONSIDERED**

**A. 10-minute public session**

Ms. (Rosanne) Adams, Goodwin Road, asked if she could get a copy of the by-law updates the PB will talk about tonight.

Mr. Beckert said that we haven’t got them tonight; that they are not ready and we won’t be discussing them tonight.

**B. PUBLIC HEARING and continued review of an application to establish a home business engaged in preparing and packaging fresh lobster meat for on-site sale. Owner/applicant is Ryan Harmon (mailing address: 67 Depot Road, Eliot, Maine 03903.) Property can be identified as 67 Depot Road, Map 53/Lot23, and is located in the Suburban Zoning District. (PB16-19)**

Mr. (Ryan) Harmon was present for this application.

Mr. Beckert said that there was an updated checklist, site plan, and memo from the Public Works Director.

Ms. Pelletier said that Mr. Harmon has taken care of everything on her checklist; that he hasn't heard back from the site evaluator for the septic system so she recommended that, if the PB approves this tonight, the PB make it a condition of approval that he satisfies any requirements of the plumbing code to the CEO's satisfaction before he begins operations.

**7:06 PM Public Hearing opened.**

Mr. (Robert) Fisher, Frost Hill Road, asked if the applicant was able to freeze the lobster meat if he wanted to.

Mr. Harmon said yes; that he has a chest freezer.

Ms. Adams asked if there would be a store or would it be sold from a building.

Mr. Harmon said that it would be in his garage; that he would take them out of the lobster tank, weigh them, and sell them.

Mr. Fisher asked if the applicant was a lobsterman.

Mr. Harmon said yes.

**7:08 PM Public Hearing closed.**

Mr. Bouchard asked if a freezer was a requirement for this operation.

Ms. Pelletier said no, not from the PB.

Mr. Lentz asked if the dumpster permitting came through the CEO.

Ms. Pelletier thanked Mr. Lentz for the reminder, saying that we could add that as a condition of approval that, if he has or is proposing a dumpster, that he needs to comply with our Refuse Disposal Ordinance in the zoning chapter.

Mr. Lentz said that someone asked last time if he needed a health permit from the State.

Ms. Pelletier said that he does need one; that he is aware and is seeking one. She added that the PB could add that as a condition of approval that he show that to the CEO when he gets it.

Mr. Whalen said that this might have been discussed at the last meeting but he was trying to match up the application with the site plan; that it says that the external, outside

business will be contained in a 10'X12' shed in the original application but the revised plan says 10'X18'.

Ms. Pelletier said that we did revise that at the last meeting because the shed was too close to the property line and doesn't comply with the Home Business Ordinance; that he moved all of the operation into a structure that does comply; that it's the same square footage, just relocated.

Mr. Lentz moved, second by Mr. Whalen, that the Planning Board approve 16-19, as presented and discussed at September 6, 2016 and September 20, 2016 meetings, with the following standard 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
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 approval 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 applicant will show proof of a State food processing license to the Code Enforcement Officer prior to the start of his operation.
5. Prior to the start of operations, the applicant shall provide evidence satisfactory to the code enforcement officer that the existing onsite subsurface wastewater disposal system has the capacity to handle the additional use while meeting the applicable requirements of the plumbing code/subsurface wastewater disposal rules.
6. The applicant must show a dumpster location and comply with the Eliot Refuse Disposal Ordinance through the Code Enforcement Officer.

**VOTE**

**5-0**

**Chair votes in the affirmative**

Mr. Beckert 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.

**C. Continued discussion of possible amendments to Chapter 29 (Growth Management) of the Eliot Code of Ordinances related to issuance procedures for growth permits.**

- **October 25, 2016 email from MMA Legal Services to Kate Pelletier regarding the calculation of growth permits.**

Mr. Beckert said that this memo deals with the discussion Mr. Rankie brought up about 'affordable housing' versus 'elderly housing' and asked Ms. Pelletier to speak to this.

Ms. Pelletier said that she told them how we currently calculate it, what we include, and don't include, in that number, and why; that a resident had disagreed, saying that he believed that 'elderly housing' was, by definition, also 'affordable housing' and that it should not be included in that 10-year average that we use to calculate. She added that MMA came back to say that they basically agreed with the Town; *"that neither State law, nor the Eliot Growth Management Ordinance, expressly exempts permits for elderly housing from the calculation to determine the maximum number of new dwelling units per calendar year. Only permits for affordable housing may be excluded from this calculation"*; that she then refers to our ordinance and State statute; that they are two different distinctions and not mutually exclusive terms. She said that that's the answer and we will continue doing it as we have been doing it.

Mr. Lentz said that, regarding the attorney's last sentence of her response, even if we did that, it would work against us because then you wouldn't count any of those and you would have no control, either.

Ms. Pelletier agreed; that if we wanted to not include the elderly housing in that calculation, we certainly would have been clear about that. She added that, if you want to change that, we will have to change the ordinance.

Mr. Lentz clarified that we are calculating it correctly, based on the legal opinion.

Mr. Beckert agreed.

Ms. Bennet said that, if we are not applying the Growth Management Ordinance to 'elderly housing' units, maybe we should keep them out of the calculation.

Ms. Pelletier clarified that we don't apply it to 'elderly housing' because they don't have the impact as a non-elderly housing unit does; that if that is something the Town wants to change, then we can change the ordinance.

**Issuance procedures for growth permits.**

Ms. Pelletier passed out a timeline that she and Mr. Duncan have been working on regarding the history of this from the beginning; the changes that have been made, the methods we have used, or employed, for issuing permits in the past; that she also has all of the supporting sources of information and will be attached to this. She added that it literally involves reading every page of every set of minutes because there is not even an agenda that goes with the minutes; that it's quite time-consuming; that it's interesting to see that they had the same exact discussions that we are having today; that their thinking was right along the same lines as yours is. She said that it is coming along.

Mr. Beckert said, so, more to follow; that this isn't anything we would have ready right off, anyway.

Ms. Pelletier agreed; that she wasn't quite sure what the changes that you want to make to the ordinance are but maybe that will come out once we see the whole evolution.

Mr. Beckert said that the PB may determine that there aren't any necessary changes to be made; that no one has come forward with any better way to distribute the permits.

Ms. Bennett asked what years this timeline is reflecting.

Ms. Pelletier said that it starts in 1977; that the ordinance, itself, was adopted at Town Meeting of March, 1979.

Mr. Beckert commented that, when they started their review, it looks like they went back to 1971 in reviewing the growth.

Ms. Pelletier agreed; that the Comprehensive Plan came out in 1975, which seems to be what triggered all of this.

Mr. Beckert said that he didn't think that one passed.

Ms. Pelletier agreed, adding that the Town still adopted it, anyway. She said that the survey they did for that showed an overwhelming desire for the Town to keep things rural and, coincidentally, for 2 years, that same year they had a huge spike in building, with 72 homes per year constructed for two years.

Mr. Beckert said that that was the timeframe when Riverview Estates (48 units) came in and, then, Rollingwood followed.

Ms. Pelletier agreed; that everyone was starting to worry and brought SMRPC in to guide them along; that they held a lot of public hearings and workshops and, apparently, excellent public participation during the process; that the PB wrote a supplement to the Comprehensive Plan that focused on growth control in 1978 and that was passed at Town Meeting; that, from there, they wrote the ordinance. She added that the margin it passed by was less than 100 votes – 851 to 779.

Mr. Lentz said that he read, with great interest, the document sent by Ms. Pelletier regarding the town to our north's growth permits; that some of it he thought was good.

Ms. Pelletier agreed it was an interesting way to do it; that it was a different kind of point system but certainly one that has some science behind it.

Mr. Lentz asked how they get away with just setting a number and that's it; that there's no real looking at the State statute or anything else; that they just say 'that' is the number.

Ms. Pelletier said that she didn't think they paid any attention, to be quite frank; that they just haven't gotten caught, yet.

Ms. Horner asked if they hit that number.

Ms. Pelletier agreed that they didn't exceed the number; that that is probably why it's never been challenged.

Mr. Beckert explained that they had their influx of growth just following ours; that it was the same developer that developed Riverview Estates and Rollingwood here in Town, then moved up and developed Old Mill and Woodland Hills and Agamenticus Estates, which was, at the time, the largest subdivision in the State of Maine.

Mr. Beckert said that we have more information coming to put the whole picture together; that this will be an ongoing process for a little while.

**D. Review updates to Planning Board by-laws prepared by Christine Bennett.**

This was discussed earlier.

**ITEM 7 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS**

There was no discussion.

**ITEM 8 – CORRESPONDENCE AND PLANNING ASSISTANT, AS NEEDED**

**Final draft policy formalizing the Planning Board's long-standing practice of requiring submissions to the Board at least 10 days in advance of meetings, when not otherwise specified by ordinance.**

Ms. Horner asked what we are changing, specifically.

Ms. Pelletier said that we are not changing anything; that we are just establishing a written policy on something. She added that this is just formalizing and she has a book of random things like that that the PB has done over the years; the 10-minute public input session, the by-laws, etc.

Mr. Whalen asked for the definition of 'computation of time'.

Ms. Pelletier read: "*Computation of time. In computing any period of time prescribed or allowed by this Code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.*"

Mr. Whalen moved, second by Mr. Bouchard, that the Planning Board formally adopt the policy for the 10-day Submission Deadline for Planning Board Applications, as read and presented.

**VOTE**

**5-0**

**Chair votes in the affirmative**

**ITEM 9 – SET AGENDA AND DATE FOR NEXT MEETING**

The next regular Planning Board Meeting is scheduled for November 15, 2016 at 7PM.

**ITEM 10 – ADJOURN**

There was a motion and a second to adjourn the meeting at 7:32 PM.

  
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Steve Beckert, Chairman  
Date approved: 11-15-2016

Respectfully submitted,

Ellen Lemire, Recording Secretary