

**ITEM 1 - ROLL CALL**

Present: Steve Beckert – Chairman, Jeff Duncan, Greg Whalen, and Dennis Lentz.

Also present: Kate Pelletier, Planning Assistant.

Absent: Larry Bouchard (excused), Melissa Horner – Alternate (excused), and Christine Bennett – Alternate (excused).

Voting members: Steve Beckert, Jeff Duncan, Dennis Lentz, and Greg Whalen.

**ITEM 2 – PLEDGE OF ALLEGIANCE**

**ITEM 3 – MOMENT OF SILENCE**

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

Review of minutes was postponed.



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

**Amberger Yoga School (PB16-2) – approved as written**

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

**A. 10-minute public input session.**

There was no public input.

**B. PUBLIC HEARING and continued review of a Site Plan Application to expand an existing boat storage facility located on Ruth Lane by constructing a 40' X 32' addition and two (2) 16' X 72' open-sided sheds to an existing building. Applicant is Independent Boat Haulers (mailing address: PO Box 61, Eliot, Maine 03903). Property owner is John E. Pollard (mailing address: 726 New Dam Road, Sanford, Maine 04073). Property can be identified as Map 29/Lot 5 and is located in the Suburban and Commercial/Industrial Zoning Districts. (PB16-21)**

Lee Allen (civil engineer), John Pollard (property owner/Independent Boat Haulers), Ray Keene (IBH), and Carl Archer (Independent Boat Haulers) were present for this application.

Mr. Allen, Nonesuch Engineering, said that the PB has plans that show five parking spaces just to the south of the building. He added that, regarding the landscaping, there are some trees that did not show up on our survey that he added to the plan; that he added some white pines along the southern property line, which he believes would be an effective buffer to the south. He said that, to the east, it was a little more challenging

because it is a wide-open, existing paved area that has been there for quite some time; that there was a catch basin located down there and there is a lot of scrub brush; that he thought that was a good opportunity to throw in a 6- or 7-foot tall pine tree that would grow at a rate of 2 to 3 feet a year and would create some screening in that direction. He said that we would be more than happy to answer any questions.

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

Ms. (Connie) Weeks, Odiorne Lane, said that she was concerned that this proposal has not been shared with the Conservation Commission because she was quite sure we would have some comments about the growth in that area. She added that Great Brook is there and it is her recollection that there should be setbacks from that brook; that even setbacks that haven't been there for years should finally be put into effect.

Mr. Beckert asked if the application was forwarded to the Conservation Commission.

Ms. Pelletier said no; that this was just an expansion of a building and not adding buildings; that the addition does not get any closer than 16 more feet to the brook. She added that it more than meets the setback; that all we have to go by are the minimum setbacks required by the ordinance and it does meet that. She said that the Conservation Commission isn't a required review and she didn't think it was germane to their purposes – there was no tree-clearing, no affecting any wetlands or habitats or anything like that – so she did not forward it.

Mr. (William) Burt, Beech Road, said that he just bought the place in June and he didn't know what was going on; that he was wondering what kind of buffering, traffic, etc.

Mr. Allen said that there was no additional traffic; that what we are doing is creating indoor storage for boats instead of them being stored outside. He explained that a trailer with a boat will come in, it will drop the boat, and the trailer will leave; that, in the spring, it will come pick up the boat and take it away. He added that, based on this development, there will be no change in traffic.

Mr. Burt said that Mr. Allen had spoken about a paved area.

Mr. Allen said that there is existing pavement out there; that it is all around the existing garage; that it is existing, now, and covered up with some gravel. He added that the survey shows where the pavement is; that it's not in the greatest shape.

Mr. (Peter) Cantrell, Galway Lane, said that we abut Ruth Lane and he was wondering about what kind of buffering was going to be there. He asked if the property was still forested.

Mr. Allen showed him the property on Google Earth and explained what they were doing on the property regarding buffering.

Mr. Duncan asked how long the Cantrell's have been there.

Ms. Cantrell said 16 or 17 years.

Mr. Duncan asked them if they noticed any objectionable traffic occurring prior to this point.

Mr. Cantrell said not at ridiculous hours; that, before, it was a construction company, so we would hear trucks from time to time; that he thought the worst noises we had was over by Agway when the trucks were parked there; that they would come and go at all hours of the night; that they woke us up and we had to call the police at one point.

Mr. Beckert said that, if that continues, that is an issue he can report to the CEO.

Mr. Cantrell said that, since the construction company has been gone, it has not been an issue.

Mr. Allen noted that the people who own the property, now, have only owned it for the past two years.

Mr. Cantrell said that he was concerned about trucks backing up, the time of day, and light pollution.

Mr. Beckert said that all that is being proposed is an addition to the existing red barn; that anything else he would have to come back to the PB later on.

Mr. Duncan said that there is no electricity or lighting there.

Mr. Pollard said that there is interior electricity there but we would not be adding any exterior lighting.

Mr. Duncan asked if construction was going to take place between normal business hours.

Mr. Keene said yes.

Mr. Cantrell asked if this would be a single-level garage or double level. He was showed the plan to see what was existing and what would be changed.

Mr. (Andrew) Olsen, Beech Road, asked if it was just going to be storage or is the applicant going to continue maintenance on boats there.

Mr. Pollard said yes.

Mr. Olsen asked if he would be getting Town water.

Mr. Pollard said that he has no plans to repair; that he never has done repair.

Ms. Weeks said that she objects to the fact that the decision has been made by Ms. Pelletier that the Conservation Commission does not need to see this plan. She added that she thinks it has been the practice up until the time that Jeff stopped being a member of the Conservation Commission that we look at all plans; that she doesn't think it's right that she should make that decision.

**7:16 PM      Public Hearing closed.**

Mr. Lentz noted that we got feedback from the DPW Director, with no comments, asking if we got anything from the Fire Chief.

Mr. Beckert said yes; that it's in the email; that he writes, *"I reviewed the plans for the expansion of the existing barn at 149 Beech Road. I have no comments on the barn. I do have some concerns about the leasing of 9 parking spaces...proximity of the creek, etc. Although none of this is within my jurisdiction I would recommend that the DEP and Maine Fuel Board be contacted..."*

Mr. Duncan noted on that same email sheet the CEO says that *"she has not been able to fully investigate or make a final determination about the possible tree clearing violation, but reiterated that the issue will be handled by her office and should not prevent the Planning Board from approving..."* or disapproving the application, as appropriate. He said that there has been some concern by this Board about the current conditions of the property concerning tree removal and grading; that he realizes that that may not necessarily be an issue that should stop this application from being reviewed; however, he does object to Ms. Pelletier's statement that there was no tree removal involved with this application, therefore, the Conservation Commission shouldn't see this because he does believe there has been tree removal, here; whether it's been permitted, or not, and whether it is lawful, or not, is a whole separate issue but he does believe the Conservation Commission should have an opportunity to review what's been done, here, and provide comments.

Ms. Pelletier said that she understood what Mr. Duncan was saying; that she would be happy to provide every application to the Conservation Commission and not make the call, at all; that she will do that if that is what the PB would like. She added that, as far as this application, she didn't believe there was proposed any additional tree clearing for this.

Mr. Duncan said that he doesn't disagree with that.

Ms. Pelletier said that she's not sure what they could have done; if it's a violation, it's handled by the Code Office; that she has an obligation to see it through and follow through with that; so, you can be assured that it will be corrected. She added that she will certainly send along all applications.

Mr. Beckert said that everyone needed to understand that the application has been revised from the original application and, right now, we are just dealing with the addition to the existing barn.

Mr. Allen said that he has been in discussions with the DEP; that they have reviewed this site and reviewed our application for a Stormwater Permit-by-Rule; that as of today he believes he has a verbal from them that everything is okay and it is just a matter of getting a signature on the permit. He added that he would offer that that could be a possible condition if you do vote to confirm.

Mr. Whalen asked if the owners of the property that abuts Beech Road (147) here this evening.

Mr. Beckert said yes.

Mr. Whalen asked that, as he recalls, his issue did not relate to the screening; that you had another issue with the property.

Mr. Olsen said that his issue was whether they were using Town water, if they were to continue their business.

Mr. Whalen asked if there was any issue with the proposed screening, from the abutter's perspective, the applicant has proposed for your property line.

Mr. Olsen said that it looks like they are going to the sides and not any closer to him; that they have the boats, there, as a buffer, anyway. He added that he sees boats from his backyard before he sees the shop and won't really affect him that much. He said that the amount of traffic would be his concern; that there is already a good amount of 18-wheeler traffic in and out of there but he understands that that is a separate subject.

Mr. Whalen asked if the abutter at 149 Depot Road was present.

The abutter was not present.

Mr. Whalen asked about Ruth Moynahan.

Mr. Olsen said that that was actually William Burt.

Mr. Beckert asked if everything on the checklist has been supplied.

Ms. Pelletier said yes; that she noted on there that the only thing left to do is for the PB to decide if the screening meets the ordinance requirements and, if the PB does, then she has no other outstanding items.

Mr. Lentz said that we did receive the construction drawings.

Ms. Pelletier agreed.

Mr. Whalen said that the reason he asked the question on the screening is because, from just the plan, in and of itself, it appears as though there is minimal...white pines are being added but that is not to say that that might not suffice. He added that that was why he asked the two gentlemen here if they were satisfied with the density of screening provided on the site plan. He said that the one tree that is being provided by the culvert is minimal, at best; that some is better than none, he supposed, under the circumstances. He asked, regarding the line down Ruth Lane that abuts the Cantrell property, the applicant to describe what the vegetation looks like through there; that it's his recollection that it is fairly wide open.

Mr. Allen said that, if you are looking off to the west, he thinks that's true that it's fairly wide open; that if you look down Ruth Lane to the east, there are two houses that have open yards, then it is forested for about 150 feet and, then, there is a driveway with a house set back in

Mr. Olsen said that that forested property was his property.

Mr. Whalen asked him if his home faced Ruth Lane, the side, or is that the back of the property.

Mr. Olsen said that that would be to the side of our property.

Mr. Whalen asked, based on the distance between your home and Ruth Lane, if he could physically see through the trees to see the buildings, the trucks, etc.

Mr. Olsen said he could in the wintertime.

Mr. Whalen asked if there was any additional amount of screening that would help the situation, either from the applicant's standpoint or your standpoint.

Mr. Olsen said that he would welcome that. He added that he wasn't sure how they would manage that because we are on that side of Ruth Lane; that they are not putting anything there, as that is our property line, and they would have to do it on the other side of Ruth Lane.

Mr. Beckert asked if the PB considered the current landscape layout as adequate.

Mr. Duncan said that, in his personal opinion looking at the ordinance, itself, this certainly doesn't meet the letter of the ordinance, either on the side yard or front yard; that if the neighbors aren't concerned about that, then he's not so sure he would make a big issue out of it.

Mr. Beckert asked if the PB now considered the application complete.

Mr. Whalen asked if the two checklist items highlighted had been satisfied, at this point.

Ms. Pelletier said that that was the screening and whether they have been satisfied is up to the PB; that that is why she highlighted them that whether that meets the requirements of the ordinance is a determination the PB has to make. She added that, if the PB is okay with it, then she is, too.

Mr. Duncan said that the second one is more generic and the first one is more specific; that the one thing that's not on our checklist is Paragraph (b) of 33-175 requiring landscaping or buffering of some sort in the front yard but they are both very similar requirements for a non-Route 236 property. He reiterated that he doesn't think it meets the letter of the ordinance and is inclined to say no but, if the neighbors aren't making an issue of it, then he could go either way.

Mr. Olsen said that, if they want to add more, he would take more; that if you are talking pine trees, it's going to be years before we're really not seeing a boat.

Mr. Duncan said that, basically, the rules require a continuous landscaped area not less than 10 feet in width, containing large trees, shrubs, fences, walls, berms, or similar condition forming a visual barrier not less than 8' in height.

Mr. Lentz said that the letter of the ordinance is clear and he understands the intent. He added that, when you look at the west side of Ruth Lane, he didn't know how you would screen that as the majority of that was all paved.

There was discussion regarding planting more white pines to create a continuous buffer versus the need for space to allow for the growth of healthy trees, both existing and proposed.

Mr. Whalen asked, rather than white pines, if it was possible to plant Blue Spruce, or something of that nature, just to help fill in those gaps.

Mr. Allen said that they could.

Mr. Whalen said that he understood about the white pines, as he has them on his property, but he is just trying to provide some more in-fill, there, along that property line. He added that he thought that, if we have an opportunity to deal with it now, then, down the road, it would benefit everybody in the area.

Mr. Beckert clarified that the applicant was not opposed to adding some more trees.

The applicant was not opposed.

Mr. Duncan asked, if we approve this, could we say, as a condition, that the property owner and the property owner at 147 Beech Road could agree on, between the two of them, what should be planted along that boundary.

Mr. Lentz said that he thought that that was a good approach.

Mr. Whalen said that, as an editorial comment, the plan that was developed didn't keep them watered when they get planted; so, at some point, work out, as well, between the two of you who is going to continue to water those things; that he didn't know what accountability was there regarding an applicant planting a buffer, for instance, and then they die off and defeat the whole purpose. He added that we weren't here to mandate who is going to water and how often; that he assumes these things will get planted in the spring and would like to see the plantings have a good start so they have some chance of survival.

Mr. Olsen said that he didn't know if there was language in the Eliot ordinances but it is typical to see that plantings are required to last for at least a year and, if they survive that first year, then chances of going onward are much greater.

Ms. Pelletier said that we don't have that provision, adding that it's a good one, though.

Mr. Beckert said that, considering all the discussion and the agreements between the applicant and abutter on the buffering, the question now is whether the PB considers the application complete.

Mr. Whalen moved, second by Mr. Lentz, that the Planning Board considers the application complete (PB16-21).

**VOTE**

**4-0**

**Chair votes in the affirmative**

Mr. Duncan moved, second by Mr. Lentz, that the Planning Board approve PB16-21, as presented and amended, 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. Copies of approved permits from Main Department of Environmental Protection shall be provided to the CEO before construction on this project may begin.
3. 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.



4. The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.
5. The applicant and adjoining abutter at 147 Beech Road shall concur as to the plantings along their common property line and the responsibility for maintaining them for the first year after planting.

#### DISCUSSION

Mr. Duncan said that he made this motion for the purposes of discussion. He added that he does want to say, and have it on the record, that he doesn't like the fact that we're working with a piece of property that has been altered prior to its presentation to this Board. He said that he realizes that that's not part of the Board's purview, at this point, and that will be taken up by the CEO and the applicant and, if necessary, the DEP; however, he would much rather have seen the application come to us with the original property intact and, therefore, he is not necessarily in favor of this application, at this point.

#### DISCUSSION ENDED

#### VOTE

**3-1 (Mr. Duncan opposed)**  
**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.

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

There was no discussion.

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

There was no correspondence.

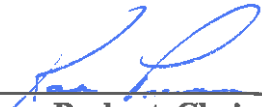

#### **ITEM 9 – SET AGENDA AND DATE FOR NEXT MEETING**

The next regular Planning Board Meeting is scheduled for January 17, 2017 at 7PM.

#### **ITEM 10 – ADJOURN**

There was a motion and a second to adjourn the meeting at 7:44 PM.

January 3, 2017

  
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Steve Beckert, Chairman  
Date approved: 2-7-2017 

Respectfully submitted,

Ellen Lemire, Recording Secretary