



March 21, 2017
7:00 PM

ITEM 1 - ROLL CALL

Present: Steve Beckert – Chairman, Larry Bouchard, Greg Whalen, Dennis Lentz, Melissa Horner – Alternate, 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.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – REVIEW AND APPROVE MINUTES, AS NEEDED

Mr. Lentz moved, second by Mr. Whalen, to approve the minutes of January 3, 2017, as amended.

VOTE

**3-2 (abstentions – Bouchard,
Horner)**

Chair votes in the affirmative

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

a. CPN Realty – nonconforming structure in Shoreland Zone (PB16-6).

This review was postponed.

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

A. 10-minute public input session

There was no one from the public who wished to speak.

B. Application for a Shoreland zoning permit to construct an additional 24’X10’ float on an existing commercial pier located at 224 Pleasant Street.

Applicant/owner is: Douglas Anderson (mailing address: 224 Pleasant Street, Eliot, Maine 03903). Property can be identified as Map 4/Lot 14 and is located in the Village Zoning District and Limited Residential Shoreland Zoning District (PB 17-2).

Mr. (Doug) Anderson and Mr. (Zach) Taylor, Pickering Marine, were present for this application.

Mr. Taylor said that this is an existing dock structure on the property, a partial structure; that having the dock in place for multiple years, he has a good feel for some of the hazardous conditions he has experienced on occasion. He added that it's a pretty long stretch of water across the river and he gets, on a northwest wind, a good fetch that creates enough wave action that it's actually smashing the boats to the dock or sending water over the pilings, creating a serious hazard. He said that the owner is often out of Town with work and might not have the occasion to handle the boat and prepare it safely so that he doesn't run into issues; that he's had a few near misses; that he does have a good support system of neighbors around him that have occasionally been able to help him out when he wasn't around. He explained that the idea is to make a modification to the system by adding 'this' essentially angled extension heading in a northwest direction so the boats can be safely tied there and not have to worry if conditions change. He said that the project is just adding additional angled float in a northwest direction, moving a piling, and adding the dolphin pile at the end of the float. He added that we have submitted the application to the DEP, Army Corps of Engineers, Maine Historic Preservation Commission, and Indian Tribes; that DEP has already been on-site, we met with them, and they gave us a tentative okay; that it's currently in review with the DEP and Army corps but we don't have an official okay from either, yet.

Mr. Whalen said that, regarding the riparian line boundaries (east/west), the plan indicates that the addition extends approximately 9.4 feet beyond the riparian line, asking if that was in tolerance relative to the ability of this dock structure to extend beyond those lines.

Mr. Taylor said that that was something the applicant specifically worked with Mr. Brickett; that they worked on that agreement to figure out what was needed based on the location and proximity to Mr. Brickett's dock; that they figured this would be an acceptable allowance; that he believes the agreement is in the application packet.

Mr. Bouchard said that he believed the agreement set in the record deed.

Ms. Pelletier agreed that it needed to be recorded at the Registry of Deeds, upon approval; that we could make that a condition of approval.

Mr. Beckert asked if we had to go through the public hearing process.

Ms. Pelletier said that the PB doesn't have to; that it is optional.

Mr. Whalen moved, second by Mr. Lentz, that the Planning Board waive the Public Hearing for this application.

DISCUSSION

Ms. Bennett asked if there were any abutters present to speak to this.

There were none.

Mr. Beckert said that we have the letter of agreement from Mr. Brickett and the only other direct abutter is Public Service of New Hampshire.

DISCUSSION ENDED

VOTE

4-1 (Bouchard)

Chair votes in the affirmative

Mr. Beckert said that the PB could approve this tonight contingent on all permits (DEP, ACE, etc., be in place.

Ms. Pelletier agreed, saying that, if they do, just apply all previous conditions from the original pier approval.

Mr. Lentz asked if we had heard from the Chief.

Ms. Pelletier said no; that she was looking back through the old file and he just said that they have a shed on their deck; that his only comment on that was that any emergency services would be delayed that much more getting out to the end of it should anyone need them. She added that, as long as you honor the previous conditions, then that should all carry over. She added that there was a note in the previous approval stating, "The applicant will insure that customers and visitors will not park on Pleasant Street."

Mr. Bouchard moved, second by Mr. Whalen, that the Planning Board approve PB17-2 and keeping in place conditions from PB7-8 (5/15/2007) and PB12-4 and the standard conditions of approval.

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. Review proposed ordinance amendment – Draft #1 "Amendments to Chapter 1 (General Provisions) and Chapter 31 (Non-Stormwater Discharges) of the Municipal Code of Ordinances of the Town of Eliot, Maine to allow dechlorinated swimming pool water to be discharged to the Town's storm drainage system."

Ms. Bennett said that when we look at page 2 of the handout there's actually two amendments going on to this section of the ordinance but the article to go before the voters is more simplified; that there are two pieces of ordinance changes that are underlined in bold.

Ms. Pelletier said that it's all part of the same section; that we only put in the title and chapter numbers that are changing; that the only thing that goes in there are the Chapter

and title, not the sections. She added that there is a section in the ordinance about how articles have to be worded; that it's right at the beginning of your land use ordinance and you should familiarize yourself with that; that it's in Chapter 1 (§1-10).

Mr. Whalen asked what the reason was for the addition.

Ms. Pelletier said that we didn't include it when we initially proposed it in 2006; that they inadvertently left it out of their (MEDEPS Permit) model ordinance, which is what we based our ordinance off of; that it's just an oversight they are getting around to correcting, now, 11 years later.

Ms. Bennett said that it appears there's a little more stringency in this amendment being incorporated by adding the phrase, "as long as it does not cause or contribute to a violation of the State's water quality standards." She added that it seems this is not only actually allowing additional discharges but also everything that follows (list) as long as they don't cause a violation of the State's water quality standards; that it seems there is a two-part amendment going on, two different elements being amended, here, besides the addition of de-chlorinated swimming pool water as an allowable non-stormwater discharge.

Mr. Whalen asked where the water ends up.

Ms. Pelletier said the Piscataqua River; that what is regulated under this permit is a municipality's stormwater entering waters of the State; that once it gets there it's been traveling from everywhere in Town and eventually ends up in that river. She added that it's not just people who live on the water; that they just happen to be at the last stop before it hits the water.

Mr. (Robert) Fisher, Frost Hill Road, asked who was going to run the water from that pool to dump this in; do we have somebody in the area that wants to pump out pools and dump it into this area.

Ms. Pelletier said that it's just a way for people to get rid of that water without having to pay for it or have it be a violation of this ordinance; that this is just a formality, making it okay that, if it's de-chlorinated already and doesn't violate State water quality standards, you can avoid having it pumped and just do it yourself. She added that it was something that came up in discussion by a lot of people, over the years, at the State level, so we are just taking a recommendation from them, that's all.

Mr. Fisher said that he was wondering who was going to be policing this, who will test the quality of the water they pump out.

Ms. Pelletier clarified that we don't do it before they start pumping but we do test all the outfalls every year; that if there are violations of water quality standards, then we have to investigate and remediate.

Mr. Fisher said that, by that time, it would be too late.

Ms. Pelletier said that this is just like any law; that you can't be there all the time; that people need to know that they can't be dumping pollutants into the water bodies. She added that we can't be everywhere all the time but that's the case with all regulations.

Mr. Bouchard said that it would be the same thing as dumping oil, or hazardous waste, in your back yard – you don't get caught until you're caught; so, you need to know you cannot do it with chlorinated water. He said that they don't want us to dump chlorinated pool water but has to be de-chlorinated before you can let it go into the stormwater system; that if they find high levels of chlorinating, they will look to see who dumped a pool, whose pool is empty.

Mr. Beckert said that if no one has any recommended changes, then we can move to public hearing.

A public hearing was scheduled for April 4th. The PB was reminded that they have a site walk that night, also, for Ms. Nooney's application at 5:30 PM, with a public hearing for her that night.

D. Review proposed ordinance amendment – Draft #1 “Amendments to Chapter 1 (General Provisions) and Chapter 29 (Growth Management) of the Municipal Code of Ordinances of the Town of Eliot, Maine to establish an application fee for growth permit applications.

Mr. Lentz suggested, under §29-42 (2nd page), that the wording be change from “application permit fee” to “application growth permit fee”.

Ms. Pelletier agreed that was clearer.

This ordinance amendment was scheduled for a public hearing April 4th.

ITEM 7 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS

There was nothing.

ITEM 8 – CORRESPONDENCE AND PLANNING ASSISTANT, AS NEEDED

A. Update on retail marijuana moratorium

- **“Lifting the Haze on Marijuana Legalization: Issues and Questions for Municipalities” MMA Presentation.**

Ms. Pelletier said that she was passing the presentation along from the workshop she, the Town Manager, and CEO went to. She added that we had started working on a moratorium and paused that while the SB considered holding off on that because the State has postponed rule-making on retail marijuana until February 2018. She added that

a moratorium is initially only good for 180 days, which wouldn't get us very far and, then, it would have to be repeatedly extended; that the SB decided that we are not going to do that until at least November so we are going to hold off on moving forward with the moratorium ordinance, at the moment.

Mr. Lentz said that there was a point in there that kind of reversed some of his thinking; that there was a point in there about caregivers and, mostly, we were thinking that caregivers would mostly be a home occupation, or could be.

Ms. Pelletier said that caregivers are associated with the medical.

Mr. Lentz said that what it was suggesting was that, if you consider marijuana a manufacturing business, it could very well be limited to the commercial area.

Ms. Pelletier said that, for the retail side, she would agree; that, with the medical side, she thinks we need to start looking into home businesses and updating our regulations there, too, because she believes we are not in compliance with the State law. She clarified that we are going to hold off on anything to do with personal use (moratorium, ordinance) until the State comes out with...because we don't know what the State's rules are going to be.

Mr. Bouchard said that, for personal use, it doesn't have to be a home business.

Ms. Pelletier said that that was correct; that it probably should not be a home business if it is retail, then that would imply commercial. She added that the SB is considering doing a straw poll to voters in June asking voters if this is something they would want in their Town; under the right circumstances and the right location, would this be something they would want – retail operations – because the Town has, of course, the authority to say no, that we don't want these, at all, in our Town, or, they can, and they can establish certain zoning regulations. She added that we don't even know if people, here, want this; that they voted it in by a large margin on the State-wide initiative and that's an indicator that they would be okay with it but that doesn't mean that they are necessarily okay with these facilities in their own Town. She said that she thought the straw poll would be helpful in guiding us on where to go; that you don't want to do all that work on ordinances and then have the Town say they don't even want these here.

Mr. Beckert asked if anyone had anything else.

Ms. Bennett asked when we would be revisiting the by-laws.


Ms. Pelletier said that she just got them yesterday so she didn't put them on the agenda for this meeting; that she could put them on for the next agenda.

ITEM 9 – SET AGENDA AND DATE FOR NEXT MEETING

The next regular Planning Board Meeting is scheduled for April 4, 2017 at 7PM.

ITEM 10 – ADJOURN

There was a motion and a second to adjourn the meeting at 7:38 PM.



Steve Beckert, Chairman
Date approved: 5-16-17

Respectfully submitted,

Ellen Lemire, Recording Secretary