

ITEM 1 - ROLL CALL

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

Also present: Kate Pelletier, Planning Assistant.

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

Last Alternate to vote: Christine Bennett

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – REVIEW AND APPROVE MINUTES, AS NEEDED

Mr. Lentz moved, second by Mr. Bouchard, to approve the minutes of March 21, 2017, as amended.

VOTE
4-1 (Bouchard abstained)
Chair votes in the affirmative

Mr. Duncan moved, second by Mr. Lentz, to approve the minutes of April 4, 2017, as amended.

VOTE
5-0
Chair votes in the affirmative

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

a. Gould-Nash Day Nursery (PB16-7)

b. Hannan – Home Business (PB16-8)

This review will be done at a later meeting.

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.

RECEIVED
SEP 06 2017
BY: Windy Rawski,
Town Clerk

B. PUBLIC HEARING and continued review for a Shoreland zoning permit to construct a 6'X10' access way, 6'X20' residential pier, 3'X20' gangway, and 10'X20' float at Mast Cove Road. Owner/applicants are Andrew & Daniela Machamer (mailing address: 40 Mast Cove Road, Eliot, Maine 03903). Property can be identified as Map 14/Lot 8 and is located in the Village Zoning District and Limited Residential Shoreland Zoning District. (PB17-3)

Received: March 27, 2017

1st Heard: April 4, 2017

Public Hearing: May 2, 2017

2nd Hearing: May 2, 2017

No Site Walk

Approval: May 2, 2017

Steve Ricker (Ambit Engineering) and Doug Anderson (Vice President of Riverside & Pickering Marine Contractors) were present for this application.

Mr. Ricker summarized the project. He said that the project consists of a 6' by 10' accessway, a 6' by 20' fixed wood pier supported by pilings, a 3' by 20' aluminum gang plank leading to a 10' by 20' float; that we have positioned the tidal docking structure between two areas of salt marsh to avoid impacts to those environmentally sensitive areas and we have provided adequate distance to the two riparian lines that are shown on the plan. He added that, on Sheet C-1, we have shown tidal datum and, on D-1, we show the details of the tidal docking structure profile view and the fluctuation of flow during the tide cycle; that the float will have skids installed on the bottom of it to keep it a minimum of 18" off the mud, as those are DEP and Army Corps of Engineers requirements. He said that the DEP permit has been applied for and currently under review; that the Army Corps of Engineers permit was authorized today and emailed to him. He added that the float is located by two pilings; that there is currently no docking structure on the lot and there will be no clearing of vegetation to install this docking structure; that all construction will be performed from the water-side, utilizing a crane barge to further minimize impacts to the resource during construction. He said that portions of the structure are fabricated off-site and transported to the site via the same crane barge, which eliminates a lot of foot traffic, on-site, during installation.

7:13 PM The Public Hearing was opened.

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

7:14 PM The Public Hearing was closed.

Mr. Whalen asked if there was a residence on the property.

Mr. Riker said yes.

Mr. Whalen asked if access to that residence was over the ROW.

Mr. Ricker said yes; that C-1 shows the ROW and the boundaries of the property.

Mr. Duncan moved, second by Mr. Lentz, that the Planning Board approve PB17-3 be approved as presented 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.
2. Copies of all approved permits from Maine DEP and US Army Corps of Engineers 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. All new and existing piers and floats, temporary or permanent, shall be affixed with a reflector not less than three (3) inches in diameter, located not more than twelve (12) inches from each corner for piers exceeding 40 feet in length. Reflectors shall also be affixed to each side of the pier in a frequency of one (1) per twenty (20) feet.

VOTE

5-0

Chair votes in the affirmative

Mr. Beckert said that the application stands approved and there is a 30-day period from tonight in which the PB decision can be appealed by an aggrieved person or parties – move forward but move forward cautiously.

C. Request for Planning Board Action to amend a previously-approved Site Plan (PB05-7) by adding seating and bathrooms to an existing restaurant located at 811 Harold L. Dow Highway, Eliot, Maine 03903. Applicant is Scott Deherte (mailing address: 811 Harold L. Dow Highway, Eliot, Maine 03903). Owner is Dow Highway Properties, LLC (mailing address: 385 Sixth Street, Dover, NH 03801). Property can be identified as Map 79, Lot 26 and is located in the Rural Zoning District (PB17-4).

Received: April 24, 2017
1st Heard: May 2, 2017

Mr. Scott Deherte was present for this application.

Mr. Beckert said that it was his understanding the Mr. Deherte brought some other information in.

Ms. Pelletier said yes; that she told him it would be up to the PB to decide if they wanted to look at it.

Mr. Whalen said that he didn't see any reason why we shouldn't look at what is presented to us, if no one has any objection to that.

Mr. Deherte passed out sketches, stamped by an engineer, to the PB. He explained that all the different areas on the front that look like garage doors are different sections for a barbecue pit, steamers and lobsters, serving area, etc. He pointed out the location of the structure on the sketch plan. He added that the CEO gave him the number of bathrooms he would need to add and he could add them to the existing building off the back side.

Mr. Beckert said that he didn't see anything on the application that indicated the number of seats that would be there and needs to be on there to coincide with parking and bathrooms.

Ms. Pelletier clarified to the applicant that that is how we calculate the number of required parking spaces; that we need to know the actual number of seats he will have inside and out.

Mr. Deherte said that it is 35 on the inside and, probably, 35 to 40 on the outside; so, a total of 70 to 80, he thinks.

Mr. Lentz said that the 35 to 40 would be additional capacity.

Mr. Deherte said yes.

Mr. Beckert said that the inside seating is regulated by the Fire Marshall, asking what the inside capacity approval was currently.

Mr. Deherte said that it was 50.

Mr. Beckert said that we needed some definitive number on seating.

Mr. Deherte said that the total would be about 90 between the two areas.

Mr. Bouchard asked if that was based on square footage or can we just pick numbers out of the air.

Mr. Beckert said that the inside was approved at 50; that the applicant has given us a number of 40 in the outside area and that is the number we will go with, as far as this application is concerned. He added that that number is used for parking and bathrooms.

Ms. Pelletier said yes, which is a Code Enforcement issue.

Mr. Deherte said that he sat down with the CEO and she gave him a number for needed bathrooms, which was two more.

The requirement for parking was discussed.

Ms. Pelletier said that he would need to triple his parking, which she doesn't believe he has the room to do that and still comply with the ordinances; that he would need 30 spaces, based on 90 seats. She added that it is difficult to see on this plan; that she realized that he is on the same parcel as the whole park.

Mr. Deherte said that there is a whole back parking lot on the back, too, on the back side of the restaurant that goes with it, probably about 15 spots there, as well.

Mr. Duncan asked if that was labelled "rear parking for employees.

Mr. Deherte said yes.

Ms. Horner asked if that was closer than 100 feet (to the building).

Mr. Deherte said yes.

Ms. Pelletier said that we would need a plan that would show each space, showing 180 square feet; that they don't have to be lined out in real life but he has to be able to show that he has the room. She reiterated that the ordinance requires one space for every three seats and says nothing about employees; that she thinks employee parking is inclusive in that number.

Mr. Bouchard said that the plan would need to include drawings, setbacks, and dimensions to calculate parking.

Ms. Pelletier agreed, saying that she didn't think they would need to be engineered drawings.

Mr. Bouchard said that we would need a lot more detail than what we have.

Ms. Bennett said, regarding the rear parking for employees and dumpsters, she can understand where the applicant has that on the existing site and asked if that was what he was referring to as that additional parking.

Mr. Deherte said yes; that that came with the store, so we use that as additional parking.

Ms. Bennett asked how he accessed that parking.

Mr. Deherte said they went through the trailer park; that it is all the same owner, the owner of the trailer park is who he pays rent to.

Ms. Bennett said that it was her understanding, based on the code, that there needs to be some separation, some screening, between this property and the next property over, even though it's the same owner.

Mr. Deherte said that, on the new plan, we have an 8-foot fence going right straight across the back. He added that there was never one there; that he actually put up a makeshift fence but the people who plow the park smashed it and never replaced it.

Mr. Duncan asked if that would be running behind the bathrooms, is that what he is showing.

Mr. Deherte said yes; that that is why he wants to propose an 8-foot fence straight across, so that people don't have to hear the extra noise.

Ms. Pelletier said that one of the conditions of the applicant's first approval was that he maintain screening along the rear of the proposed parking between the property and the mobile home park, consisting of an 8-foot high, solid fence.

Mr. Deherte said that that has been done on 'that' area; that 'this' has always been open because the people walk through the park a lot, so, he has always left that open because the people walk through from the park a lot; that he has been there for 13 years and there has never a fence there; that with the additional parking put on by Mr. Long, years ago, he did, he did put a row of trees and a fence there.

Mr. Bouchard asked if this was a non-conforming use.

Ms. Pelletier said no; that this is a restaurant on Route 236 is a conforming use, even in the Rural District.

Mr. Bouchard asked, regarding the drawings, which one was the bathroom building.

Mr. Deherte said that he didn't in the bathrooms; that that's just the serving area where the lobsters, steamers, oysters, etc. are.

Mr. Bouchard asked if he was correct that that was going to be a building.

Mr. Deherte said yes.

Mr. Bouchard said that we would need drawings of that.

Mr. Beckert said that that would be attached to the existing building.

Mr. Deherte said yes. He added that, on the smaller drawing, the bathroom addition is shown as 28 feet long and 12 feet wide, enough for three bathrooms for each one.

Mr. Whalen asked, regarding the the submission, this evening, of the building that measures approximately 16' by 60", he thinks, where that was going; that this is to-be-built.

Mr. Deherte said yes; that that is the outdoor serving area, like a big shed, and will only be summer use; that half of it is going to be like the decking area so that he can set up picnic tables.

Mr. Whalen said that the dimensions on the plan show...he's just trying to put this building on the site, itself...a 12-foot dimension on there that he isn't certain what that relates to.

Mr. Beckert said to the applicant that the sketch plan needs to be modified; that, right now on this original sketch, he is showing the serving area as 12 feet wide by 59 feet long, yet, his building is 60 feet long and 16 feet wide.

Mr. Deherte agreed.

Mr. Whalen asked if this building was to be utilized year-round or seasonally, only.

Mr. Deherte said seasonally, only.

Mr. Whalen asked if there would be seating inside or will that just be a prep area.

Mr. Deherte said that that is a worker's area; that there will be all workers in there.

Mr. Bouchard asked workers in what area.

Mr. Deherte said in the building; that the outside will be seating; that there is like a corralled area in there.

Mr. Lentz asked if there was no seating in the original building, anymore, at all.

Mr. Deherte said no, no; that this is just for serving, like a deck with a serving area.

Mr. Whalen asked where the additional seating is to occur.

Mr. Deherte said in 'this' area from the front of the building to where the front fence line is.

Mr. Whalen asked how many seats are intended to be in there.

Mr. Deherte said that 40 we were talking about.

Ms. Horner suggested the applicant, just to clear it up for everybody, draw in pretend tables and chairs (circles with lines).

Ms. Pelletier said that she thinks the Fire Chief will want to see an actual seating plan.

Mr. Deherte said that the Fire Chief eats there frequently and he has talked with the Chief a little bit about it; that that is not a problem and he can ask the Chief what he wants on there. He added that there will be like a big serving window so you can go up and, if you want lobsters and steamers, you go to 'this' window and, if you want Jamaican Jerk Chicken or Ribs, you go to 'this' window and, if you want a beer, you can go to 'this' window; that, then, all the seats are going to be in the front little deck area; that that is just going to be picnic tables with umbrellas; that in the summertime everybody wants to be outside. He added that he has been there for 13 years and he suffered a lot of winters and this is finally the thing; that he has tried breakfast, he's tried 'this'; that this has actually been busy since he's opened and the Town has really accepted it, and love it, and he can see he is going to need more room; that this was his alternative way to do it.

Mr. Beckert said that, once you have the sketch plan modified to where everything is going to be, then that will get forwarded to the Police Chief and the Fire Chief for their input. He asked if Highway needed any input on this.

Ms. Pelletier said that she always sends him the applications. She added that there was one more issue, here. She said that the applicant didn't mention the take-out until just now; that, in Eliot, we define a 'take-out restaurant' as anything with a window you can walk up to and get food at and that is only allowed in the Commercial/Industrial Zone for a restaurant; that it is not allowed in the Rural Zone; so, you can't have a window, unfortunately, that you access from the outside.

Ms. Bennett said that she believed that the initial approval for this site did have 'take-out'.

Mr. Deherte agreed that it did.

Ms. Pelletier said that he didn't have a window.

Mr. Deherte said that it is going to be garage doors; that he said a window but it's going to be garage doors that will be wide open, it's not going to be a window; that it's going to be just like that bar, right here (meeting room dais), like a serving area. He explained that he has each one so that he can close each area if the weather gets bad; that he has to lock it up, somehow, at night because there will be product out there, a TV out there. He added that it's going to be really nice, not a chintzy little thing; that it's going to be a nice area for people to sit down and enjoy a nice meal, have a drink, watch a game' that it's going to be like a nice, glorified shed.

Mr. Whalen asked, in the original approval back in August, 2005, if Mr. Deherte was the applicant, at the time.

Mr. Deherte said that Mr. Long was the applicant.

Mr. Whalen said that, in that case, it indicates that the MDOT issued a driveway entrance permit with the increased use of an existing entrance. He asked Ms. Pelletier asked if that would be required, again, with this increase.

Ms. Pelletier said that she would absolutely recommend that the applicant at least ask the question – if he needs to modify his DOT permit. She added that they are pretty quick about getting back to applicants; that sometimes they are interested in the number of exits and entrances and the kind of traffic going in and out.

Mr. Whalen asked if, in the original application, there was a site plan.

Ms. Pelletier said that it looked very similar to this; that Mr. Deherte was the applicant.

Mr. Bouchard asked if we had copies of it.

Ms. Pelletier said yes.

Mr. Bouchard said that she didn't need to get them right now but would like to see it at some point, as we move on.

Ms. Pelletier said that she could get it for next time.

Mr. Duncan asked about a site location map and neighbors.

Ms. Pelletier said that this is an amendment to an existing site plan; that we don't normally request those.

Mr. Duncan said that he just wanted to make sure that, if it's required, it's provided.

Ms. Pelletier confirmed that it was required on the original. She said that she has the definition of a 'take-out restaurant' and read it from Definitions §1-2: "*Restaurant, takeout means an establishment where food and/or nonalcoholic beverages are prepared and served to the public for consumption on or off the premises; where food and/or beverages may be served to pedestrians from an exterior opening or counter but not to occupants in motor vehicles whether parked or in a drive-through lane or similar arrangements; and where use of exterior loudspeakers is not permitted. The licensing authority may approve service of alcoholic beverages within an enclosed service area for on-premises consumption.*", which allows, at most, a window that you walk up to.

Ms. Horner asked if they have to walk inside his restaurant and, then, walk outside.

Mr. Deherte said that they have to walk inside the restaurant to go in and, then, it's like a corralled area.

Ms. Horner asked if they could walk in off the parking lot.

Mr. Deherte said no; that it's all closed in.

Ms. Horner said that she doesn't think this is a 'take-out restaurant' by that definition because they have to walk inside; that it's not like they are walking up to a 'take-out window'; that it's not like Dairy Queen where they literally walk in off the street.

Mr. Lentz agreed.

Mr. Whalen asked where the property line is on the sketch.

Mr. Deherte said that all that land is owned by one person; that the park owns everything.

Ms. Pelletier said that he just leases the building.

Mr. Deherte said that he is just trying to do something the Town of Eliot has been asking for; that he is busy all the time there; that they want an outdoor place to be able to get a drink and some food. He added that, if it happens, great; that he would have to spend a lot of money to do this and he really wanted to provide it for the community; that his food is delicious, he cooks every day, you get a big meal and a good deal. He added that he is trying to do the right thing, here, and get everything right; that you guys will make the suggestions and it will be something nice for the Town.

Mr. Duncan said that he was trying to work through 'take-out restaurant'.

Mr. Deherte said that he didn't believe it would be considered a 'take-out restaurant' because you have to actually go in through the restaurant, go into an area through the deck, and it's all closed in; that you can only get out through an emergency exit, in there, or back out through the front door.

Mr. Beckert said that they would not be able to access this outside area from any place other than inside the restaurant.

Mr. Deherte said that that was correct; that you can just walk up, order food, and leave; that it's more like there will be an extension of the restaurant outside; that you can still get a drink out there, you can still get a burger, or a lobster, etc. He added that he thinks it's a nice idea, where it's messier cooking food like lobsters and steamers, to just keep that outside; that that's where you traditionally get lobsters and steamers, on a nice day, so that's why he was going to add that in.

Mr. Duncan said that he thinks it sort of hinges on the definition of what is a pedestrian; that a pedestrian, to him, is someone who walks in off the parking lot to a counter as opposed to someone who has walked into a restaurant, an enclosed building, and this just happens to be an outdoor seating area.

Ms. Pelletier said that you can't get any food or any beverages from an outside opening of a building; that you have to walk inside a building.

Mr. Bouchard said that you have to get to the outside from the inside, period; you need to walk through the building into that area.

Ms. Horner said that that would be like comparing the Gaslight Restaurant in Portsmouth and calling that a 'take-out restaurant'.

Ms. Pelletier said yes; that she saw that.

Mr. Duncan said that he was still not convinced either way.

Ms. Pelletier said that there is a definition of 'restaurant', too, and maybe it would be easier to see if he is a 'restaurant', instead.

Mr. Beckert said that, in other words, they can't walk up to a hole in that fence and order food.

Mr. Duncan said no, he understands that; that he is just trying to get to a point where this can happen.

Mr. Bouchard asked what we permit it as now, is it a restaurant.

Mr. Beckert said yes.

Ms. Bennett said that it was a convenience store before.

Mr. Beckert said that that was before the restaurant; that that was when Mr. Ted Long originally built the building.

Mr. Lentz asked if there were bathrooms in the facility right now; that this is additional bathrooms being added.

Mr. Deherte said yes; that when he sat with the CEO, she did the square footage and, if he does this, he will need to put in tow more seats for men and women.

Mr. Lentz said that, regarding the bathrooms, his concern was with the sewerage and whether it will pass inspection.

Mr. Beckert said that that goes into the park sewer system.

Ms. Pelletier said that, regarding Mr. Bouchard's question, it was permitted as just a 'restaurant'.

Mr. Duncan said that he walks in, he wants an ice cream cone; that he goes up to the counter, orders his ice cream cone, walks out to his car and eats it in his car, or he drives away, asking if that fit the definition of 'restaurant', where he is taking out food or beverage for consumption outside the enclosed building.

Ms. Pelletier said that she thinks it does; yes, technically.

Mr. Duncan said that that's not allowed, according to this definition, "...*where customers are not permitted or encouraged...to take out food or beverage for consumption outside the enclosed building.*"; that by that definition, you couldn't take that ice cream outside the building.

Mr. Deherte said that that would go for every restaurant in Town; that you can't take out any food. He asked if they were saying you can't order food to go, you have to eat it there or nowhere.

Mr. Duncan said that that is what the definition of restaurant says.

Ms. Bennett quoted "not permitted or encouraged" and asked, when you are serving from these windows...

Mr. Deherte said that he shouldn't have said windows; that it's not really going to be windows; that it's going to be just one open-wide thing; that he kind of put sections because the doors are 12 feet long, adding that that's how long garage doors are, so he made it in 12-foot sections for a door but he is going to put lobsters and steamers 'here' in that area, maybe do an open-pit barbeque over 'here', something 'here'; that he doesn't know what it is but there is a lot of space to take up there; that it's going to be just one, flat, straight serving bar, not like windows.

Ms. Bennett asked how he was going to serve it onto what...plates, silverware...how is he going to package this.

Mr. Deherte said all on plates, just like we do inside.

Ms. Bennett said that that was part of the definition; that, in a 'restaurant', you don't package it like it's ready to be taken out; that it's plated, with silverware and all that.

Mr. Deherte agreed; that it is all plated.

Mr. Beckert said that he's not sure that he knows of a restaurant that doesn't allow take-out food.

The PB agreed.

Ms. Horner said to Ms. Bennett's point, the rest of that says, "...by the design of the physical facilities...". She added that her interpretation of "*not permitted or encouraged by the design of the physical facilities*" means, if you were to walk up to a window right outside of your car in a parking lot, that would encourage you to order something right away to go; that the physical facility of the applicant's idea is that you have to go into the restaurant, walk down the sidewalk, get a seat; that if you're hungry, you would order a lobster, if you wanted to grab a beer, you could keep drinking. She added that, in her opinion, this does fall under a restaurant and we can't get caught up on the word 'window' and 'counter' because the physical facilities are enclosed and he is trying to encourage people to stay; not encourage people to go all the way inside for lobster and take it all the way back out.

Mr. Bouchard said to go a little bit further, asking if this building was totally detached from the main building.

Mr. Deherte said yes.

Ms. Horner said, but connected.

Several PB members said by a sidewalk and fence.

Ms. Pelletier said she didn't realize that; that she thought it was connected to the actual structure. She added that it would have to be 20 feet apart.

Mr. Deherte said that it can be, if you need it to be.

Mr. Bouchard said we need a lot more of this plan, here.

Mr. Whalen said that there is no definition for 'pedestrian'. He asked, just out of curiosity, what can we assume for the purposes of interpreting both 'restaurant' and 'restaurant, take-out'; that it seems, to him, to hinge an awful lot on clientele being defined as 'pedestrian', or otherwise. He added that one refers to serving the 'public' and one refers to serving the 'public' and 'pedestrians'.

Ms. Horner said that they both use the word 'public' and 'pedestrian'.

Mr. Beckert asked if there were other questions from the Board.

Mr. Bouchard said that he had some. He added it has to do with stuff that needs to be clarified; that we can't sit here and do this whole application for him; that he needs to do this himself. He said that his problem was the setbacks, parking, the square footage of the buildings and bathrooms; that he believed it was still a non-conforming use that he would look into, show the screening, the DOT permit for the entrance, show the entrances; that all had to be in dimension...

Mr. Beckert clarified to the applicant that a lot of it hinges on the applicant modifying his drawings with the correct dimensions; that this outdoor serving building is going to be so many feet and that he thought Ms. Pelletier said at least 20 feet from the existing building.

Mr. Deherte said that that was probably about right.

Mr. Beckert said that the best bet would be to come in, sit down with Ms. Pelletier and the CEO, go over the different requirements in the ordinance, and he would come up with a completed sketch plan that shows all the actual dimensions.

Mr. Deherte said that Ms. Pelletier has been great; that he will just come back and sit with her; that he was willing to work to make this work.

Mr. Beckert asked Ms. Pelletier when the applicant would have to have all this stuff submitted in order to be on the next agenda; that starting in June, we will take applications once a month.

Mr. Bouchard asked if we were doing a site walk and public hearing on this.

Mr. Beckert said yes.

Mr. Whalen said that we have, in our packet, a memorandum from the CEO concerning this application. He asked how that would figure into our recommendations this evening.

Mr. Beckert asked if the applicant had a copy of this.

Ms. Pelletier said yes; that she was just hoping the PB wouldn't approve this tonight.

Mr. Beckert said that he doesn't think there's any way we can approve it tonight because it is a substantive change; that it has to have a better sketch plan with all the dimensions on it.

The detached building has to be a minimum of 20 feet from the existing building.

There was discussion regarding the Seacoast Waldorf application regarding the proposed structure being originally designed to be attached but having to be changed to be detached to meet code, and why.

Ms. Pelletier said that Black's Law definition of pedestrian is, "A person travelling on foot." She added that the next meeting is May 16th (10 days from today); not looking at the 'computation of time' definition would be Sunday, asking when the PB would like to see the applicant's material in.

There was discussion between the PB and applicant that the best date may be June 20 to give the applicant time to get the required work done on the application.

Ms. Horner asked about the façade (exterior of building) changing.

Ms. Pelletier said that the applicant is dealing with that with Code Enforcement.

Mr. Deherte asked what the best suggestion on that would be; should he just put in for a building permit and put a second floor on there; that that's the whole face of the business. He added that he drove down Route 236 today and looked at every single building; that every building on Route 236 – Cumberland Farms has a big sign on the front of their building and one out by the road, Irving - every business down there; that he put up '207 Tavern' on the front of his building and they are 2 feet by 16 inches.

Ms. Pelletier said that they are in the Commercial/Industrial Zone so they get a lot more room.

Mr. Deherte said that it's all business and we all pay taxes the same; that it's hard, it's the face of his business. He added that it's supposed to look like an old-style salon tavern; that he talked with the Town Manager, asking if he could go for a variance; that he will do whatever the Town needs him to do to keep that because that is the whole face.

Mr. Whalen discussed that the sketch plan would come back for the June 20 meeting; so, we could schedule a public hearing, then, which would be the second meeting in July and, if the application was passed that evening, best case, a thirty-day appeal period would put the applicant into the third week in August; that the applicant has lost his season for all intents and purposes.

Mr. Deherte said that he didn't plan on it for this summer; that it's something for the future. He reiterated that he can work it the way he has to, now; that this is just more work for him in making his business a better place; a lot of questions from the people of Eliot that this is what they want because there's nowhere to go in Town; that all he's had is nothing but amazing replies from every customer that's come in there in the last five weeks and is really astonishing.

Mr. Beckert suggested we plan on the meeting of June 29th; that that would give the applicant time to get most everything updated, check with DOT, and work with Ms. Pelletier and the CEO.

Mr. Deherte agreed.

Mr. Beckert said that, at that point, the PB can schedule a public hearing after June 20th and a site walk.

ITEM 7 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS

Mr. Beckert said that we will work on the by-laws at our first meeting in June.

Ms. Pelletier asked if the PB would like to read her draft for a legal opinion to make sure she is asking the questions. She stepped out to make copies.

Mr. Beckert said yes. He clarified that these are the draft questions going to the attorney to clarify issues.

Copies of Ms. Horner's edited draft by-laws will be sent to PB members for their review.

PDF copies of sample by-laws from other towns will be sent to the PB for their review that Ms. Bennett found during her research.

Ms. Pelletier returned with copies of her draft letter, saying that she was interested more on input regarding public notice requirements; that she doesn't think there's much debate about the question on public comment; that she really wanted to get PB comments on page 2 – questions 1A, 1B, and 1C.

Mr. Bouchard said that 'd.' under Public Comment is from the Charter.

Ms. Pelletier said yes; that she hasn't quite finished that but her question is going to be how do we comply with that and not violate somebody's due process, not inadvertently discuss an application while somebody isn't here.

Mr. Beckert said that that is why it's never been allowed, other than a public hearing.

Mr. Bouchard said that it is still not allowed, by our by-laws.

Ms. Pelletier said that we have public comment at every meeting; that it's been said that we are not complying with the Charter because we don't allow it on every agenda item; that we only allow it for general and the Charter implies that you should come and speak about anything you want, which could potentially interfere with due process because the PB is a quasi-judicial board.

Mr. Duncan read the definition of computation of time, asking if 'today' is not included in the count.

Mr. Lentz said that that is the way he reads it.

After a brief discussion, it was agreed to change the calendar example. Also, that question 1A should reflect that change to change the words, "is included" to "should be excluded".

Mr. Lentz asked if we were talking business days or calendar days.

Ms. Pelletier said that she didn't know; that she would like to know the answer, too.

Mr. Lentz said that it should be defined, one way or the other.

There was discussion regarding the impact to appeals and the need to have that clarified, as well.

Ms. Pelletier will attach Ms. Bennett's email, regarding her proposed alternative interpretation, to the letter to the attorney.

ITEM 8 – CORRESPONDENCE AND PLANNING ASSISTANT, AS NEEDED

- **May 3, 2017 Yardscaping Workshop**

The PB agreed to cancel their meeting that falls on July 4th.


Mr. Bouchard will not be available for the May 16th meeting, as he will be gone.

ITEM 9 – SET AGENDA AND DATE FOR NEXT MEETING

The next regular Planning Board Meeting is scheduled for May 16, 2017 at 7PM.

ITEM 10 – ADJOURN

There was a motion and a second to adjourn the meeting at 8:18 PM.



Steve Beckert, Chairman
Date approved: 7/18/17

Respectfully submitted,

Ellen Lemire, Recording Secretary