

ITEM 1 - ROLL CALL

Present: Dennis Lentz - Chairman, Larry Bouchard, Greg Whalen, Ed Cielszko,

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

Voting members: Dennis Lentz, Larry Bouchard, Greg Whalen, and Ed Cielszko.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION

Mr. (Jay) Meyer, Odiorne Lane, asked where the PB was with the \$100 growth permit fee that failed to get onto the ballot last year due to public notices. He asked if that was still on the agenda.

Mr. Lentz said that he did not know but would have that put on a future agenda.

Ms. (Rosanne) Adams, Goodwin Road, discussed a letter the Eliot Historical Society wrote to the PB regarding the Libbey Project, which proved to have historical significance, two years ago that was not taken up by the PB. She added that the Eliot Historical Society is asking that they be given the opportunity to review future PB applications, as requested in their submitted Memo.

Mr. Lentz said that he wouldn't go back two years but that he would make sure that is put on the checklist going forward.

Mr. Feldman agreed; that, long-term, this would need to be dealt with in an ordinance re-write but, short-term, simply a courtesy that can be accomplished by having any application that comes to the PB go to the Eliot Historical Society for comment.

Mr. Lentz agreed.

Mr. Bouchard said that the only requirement, by ordinance, on that is if it is on the National Register, and that was the issue at the time; so, he believed it will be just a courtesy.

NOTE: At this time, Mr. Lentz asked, if the PB had no objection, to move around a little in the agenda to address the minutes and Notices of Decision.

ITEM 8 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS

A. Amend October 17, 2017 minutes

After some discussion, the PB decided to table these minutes. Ms. Lemire will bring her marked-up copy to the next meeting that show the amendments.

Mr. Cieleszko discussed his concern for making sure minutes are approved in a timely fashion and asked if a standing quorum PB can okay minutes without having been in attendance.

Mr. Feldman said that that was a good question and that he would have to say that even he would have to go to Town counsel on that. He will talk to the Town Manager about getting an answer.

B. Amend decision file PB17-5

Mr. Lentz said that they would table this, as well, until the next meeting as there is a prior decision that needs approval in conjunction with this Notice of Decision, which they do not have tonight.

C. Outstanding decision files

Mr. Lentz said that he didn't have any report back from the Town Manager on the three decision files we have been tracking. He added that we will put that on for the next meeting, as well.

Mr. Cieleszko asked if any of those projects were being held up or are we just trying to clean up paperwork.

Mr. Lentz said that we are trying to clean up paperwork.

ITEM 5 – REVIEW AND APPROVE MINUTES

No minutes were reviewed.

ITEM 6 – REVIEW “NOTICE OF DECISION” LETTERS

No Letters were reviewed.

ITEM 7 – PUBLIC APPLICATIONS OR PLANNING BOARD BUSINESS TO BE CONSIDERED

A. Review draft of Planning Board By-laws

2) a) i): discussion regarding responsibilities not being derived from State legislature – local issue, not State.

Mr. Lentz said that it is worded in the Charter that way and is wrong.

The PB agreed to leave only the first sentence in that section.

2) a) v): The PB agreed to add '*each full-term slot expires at Town Meeting.*' to the end of the second sentence.

2) c): Comparison discussion with 1) b).

- Challenged versus voluntary
- Bias versus conflict of interest
- The PB agreed to incorporate 2) c) in 1) b) as an additional paragraph

3) c) i) & ii): changed ii) "...*full voting membership...*" to "...*regular voting members...*" to be consistent with i).

4) c) iii): replace '*...regular...*' with '*...board...*'.

5) b) i): remove comment in red '*and be open to the public*'.

- Public can attend but not give comment/ask questions.
- Not public hearing/due process protection.

5) 2): Mr. Feldman's question in red removed.

The by-laws will be revised to show changes and to show a revised, clean copy. Mr. Feldman will wordsmith blending 2) c) with 1) b).

B. Review Project Memo(s) drafted by Lee Jay Feldman

Mr. Feldman said that he wouldn't go into great detail on this one but that it simply tries to outline the project, the issues, and the ordinance that the PB needs to be aware of and consider; that he could provide a list of recommended conditions or actions the PB might take, if the PB would like. He added that this is just the big-picture issues and to get the PB headed in the right direction. He said that this is the type of memo the PB would see, if the PB wants them, coming from him on new projects coming forward. He said that his plan is to provide them at the beginning of the application process.

The PB agreed that they liked this format.

C. Application checklists based on application type drafted by Lee Jay Feldman

Mr. Feldman discussed the checklists he made for the PB, saying that he took the checklists from the applicable ordinance(s) and cut and pasted them into a form in the order in which they are found in the ordinance(s); that what the PB sees now, and what the applicant will get, is exactly how it appears in the zoning ordinance.

After discussion, the third category heading was revised to say, "Submission determined not applicable."

Mr. Bouchard asked if all the requirements were applicable to a waiver.

Mr. Feldman said that any submission information can be applicable; that they would have to supply a justification as to why they feel they don't need to submit it. He added that the only thing for a development from a standards standpoint that can be waived in a subdivision is road design; that he would have to check Town ordinance but, generally, State law allows waivers of street standards, if applicable. He said that there is no hard rule regarding entering information into the checklists; that the basic thing is that they follow the ordinance and there is no confusion as to the order of things.

Mr. Lentz said that something we don't often see is an estimated progress schedule, asking if that was necessary or just a 'feel good' thing.

Mr. Feldman said that, certainly, 'feel good' is one thing but he thinks that's almost a situation that you grow into and you grow into it with your Public Works Director; that, as an example, if you are dealing with a subdivision and they are building a road and it's a phased project, you want to make sure they are on-schedule and on-task; that if they are not, then there are issues that may pop up with bonding, such as release of a bond, so it can be used however you feel you need to use it; that you certainly don't want it to be 'feel good' and then get you in trouble. He added that he would be a little more conservative and say you want something submitted like date X construction will start, date B site grading will be completed, etc.; that they ought to be able to provide some sort of logistical timetable for you.

Mr. Lentz said that, as he was reviewing this checklist, it brought to mind the Camp project – the two Camps – one that was to build a dock and the other was bank stabilization and they had to tie in with the Public Works Director 's efforts; which they agreed to do but it was more of a verbal contract that we had; that we didn't really ask them to set dates, etc.

Mr. Feldman said that it also provides you the fact that they've gone through the exercise of understanding the project.

Mr. Cieleuszko said that this can also be used for enforcement actions.

Mr. Feldman said that it can; that it depends on how forcefully you want it to be used, asking if it's the be-all end-all of the project or does it just give you an idea that they are going to be on-task or is it clearly something you want Code Enforcement and Public Works to hold them to that, in calling in bonds, letters of credit, etc. He said that he thinks it a matter of how you want to use it and how much flexibility you have within the regulations to use it.

Mr. Lentz discussed, from the last page of the Site Review Checklist, the wording in bold, "No application will be scheduled to go before the Planning Board until staff has reviewed the application packet and signed this form!", saying that he has never seen this used.

Mr. Feldman said that he carried that from the prior form, adding that the question is whether the PB still wants that in there or do you want it to be part of the process; that this gets back to whether the applicant has submitted all the information and is the packet ready to go; is it ready to be seen by the Planning Board or is he going to hold it back because the applicant has not provided X, Y, or Z. He added that, then, if the applicant submits it, he would sign it and get it on the next agenda.

Mr. Bouchard said that is exactly how he sees it; that, as an example, it is just like the application at the last meeting where the plan submitted was not big enough, so he couldn't review the plans and we had to push it down the road; that, with someone in the Planning Department signing off, that is just saying that the application is ready to go and believes the PB can take action on it and do something with it at the next meeting.

Mr. Cieleuszko said that that is putting pressure not necessarily on the applicant but the Town official to tell the applicant no; that if the applicant requests a waiver, now we're talking that the applicant has to go to the PB and, in regard to that, we're the heavies on the PB, especially with a temporary assistant, no planning director. He added that he thought the bold statement was a waste of time because we don't have a Town Planner and the CEO isn't responsible for a lot of this stuff in the Site Plan Review; that it's up to us.

Mr. Feldman disagreed, saying that, until you get a Town Planner, it's up to him; that he has been hired by you to do that job and, so, as new applications come in, it's him that's going to be the heavy and tell the applicant that he needs 'this' information and he isn't going to sign off to go to the PB until he gets it; or, request a waiver and, then, in his memo he will discuss the waivers requested and it then becomes the PB who becomes the heavy as to whether the PB grants the waiver. He added that this will remove administrative work from the PB and put it back to the staff, where it should be.

Mr. Whalen said that one of the issues we've had in the past is one of conflicting messages; that we can have an applicant come before us for the first time with one set of understanding as to what is needed and what is not required only to learn through the PB process that what was provided to the applicant was either misinformation or incomplete. He referenced the "note: ...does not address the review standards that the applicant must meet in the next stage of the process.", saying that this is a form that we don't see until after-the-fact; that the anticipation by the PB is that this will be complete, in its entirety; that once it arrives, each of these boxes will somehow have been marked so that the applicant understands what his next anticipated next move is with regard to the process. He said that, in years past, we have often had to send an applicant back to the drawing board, especially with regard to the Site Plan Review process where the anticipation, again, is that we are going to have a plan to work with that's legible and, if not stamped by an engineer, has been reviewed by somebody other than a 2-year-old drawing something on a napkin. He added that the question is how did the applicant get to us in this format but, then, why do we have to go back and tell the applicant that that is unacceptable to the PB when, in fact, the series of standards and expectations that the

PB is playing by ought to be the same expectations and rules that the applicant plays by right out of the starting gate with their first contact with the Planning Department; that he is an advocate that more information is better than less information; that the better-educated applicant is our best customer. He said that not only a complete application but that level of information that gets transmitted to the applicant is better for all of us.

Mr. Feldman agreed; that he thinks part of that is that the PB is still in transition; that in 4 to 6 weeks he probably won't be here because a Planner will have been hired and, if that's the case, it's really building the rapport so that when that person meets with an applicant and they get to the point of knowing what you want and don't want, their message to the applicant will be that they need to meet 'these' requirements; that he thinks it's a matter of communication and, whoever the Planner is, getting on the same page with the PB. He added that he will probably help, behind the scenes, with the Planner for a time to get up to speed and the message he needs to communicate is that the Planner needs to get on the same page with the PB to make sure that that submission information is accurate, legible, and correct before it goes to the PB.

Mr. Lentz agreed. He said that what he is hearing from the PB is that we want these check lists and review memos.

The PB agreed.

Mr. Feldman discussed the possibility of having a waiver form for each waiver requested with any application.

Mr. Whalen commented that that part of the process, from his perspective, has been better than the average; that in the past, when the PB has been asked for a waiver, typically that is being presented by an engineer or attorney who includes a written narrative for us to consider. He added that he thinks the waivers the PB gets are more clearly spelled out than any of it.

Mr. Lentz agreed but said that he can recall situations where we had to ask all the questions or they wouldn't have provided the information.

Mr. Feldman said that we could let the waiver form ride for now. Responding to Mr. Whalen's comments, he said that the other aspect of this is has information been submitted – yes, it has, but does it meet the standard or level of information that you need to make an adequate decision, which is a different discussion; that they may have submitted the requirement but it may not meet your standard or test and, then, that's a discussion for you to deliberate and say we may need more information.

Mr. Whalen said for our level of expertise.

Mr. Feldman agreed.

Mr. Whalen, going back to review standards, said that the rest of the story regarding these checklists is that the PB should also have that checklist for review standards going through the process.

Mr. Feldman said that he would work on that.

Mr. Bouchard agreed with Mr. Whalen; that he takes an application and applies it to the ordinance and he applies everything they are asking for, asking if it does or does not fit; that when we find stuff that doesn't fit, or is gray, we talk about it; that we deal with what we're allowed to deal with and, then, there's also stuff that's presented to us that doesn't fit, period. He added, as an example, whether it can be waived – yes or no – and if it can't be waived so, period, we're back to this and then what do you do; you send it back to the BOA.

Mr. Feldman asked to let him see what he could pull together for the PB on that; that the other thing is that his memos should cover whether the applicant is meeting design standards on certain things and will tell you, as such, in the memo.

Mr. Bouchard said that that's a lot for somebody to do; that some of that is on us, too; that if the request is for a 50-foot building and it shows that on the plan, then it's good; that it's up to the CEO to make sure it's 50 feet.

Mr. Lentz said that he thinks in one form or fashion it's a constant struggle with the process and what details are at what point in that process.

Mr. Feldman agreed, saying that there's always going to be deliberations and people with different views.

Ms. Lemire said that she thought that the Camp pier was a good example of a piece of information that the PB, or the Town Hall staff, doesn't get where it can impact applications; that some of the Public Works projects, like Stormwater, could impact applications; that the Camp project included a slope stabilization that was directly impacted by a Stormwater Project on that same slope. She said maybe there are those kinds of things we could look for to make sure all the departments are talking to each other about.

Mr. Lentz said that he thought we had that somewhat under control by sending the forms out with the applications asking them to return them. He acknowledged that department heads are busy so it may not be that important to them and it doesn't get back in time, in some cases, which could actually affect a decision.

Ms. Lemire said that anything that has to do with Stormwater, Mr. Moulton should have that application; that that should be a given; that anywhere where the Fire Department has to have full access to a structure, it should be a given; that she can't find anywhere in our ordinances where that is written in there.

Mr. Feldman said that sometimes it's not; that the Fire Department comes under Life Safety 101 Code that only the Fire Department uses; that it's up to those folks to review those projects and get their comments back or we can't implement some of that information.

Mr. Whalen asked how often Mr. Feldman sees planning boards, especially in smaller communities without the benefit of professional staff, request outside assistance in the form of expertise – fee for service, consultants, advisors, or third-party engineering firms to assess a series of plans - a complicated, single application, not necessarily a subdivision, that comes before us with mounds of technical data that there's no way that any of us will have that level of expertise to dig deep through it. He added that, in the past, this PB has made somewhat hesitant attempts to reach out and seek that advice; that the PB has an annual budget and there is a line item for professional advice and he doesn't recall, in the years he has been on the PB having spent \$.50 of it, quite frankly. He added that he's sure we have but he would be curious as to what Mr. Feldman's experience has been in the field with other boards in similar-sized communities that might be faced with all of those unknowns as to the packet that has been received, asking if it's commonplace that those boards reach out.

Mr. Feldman said yes; that he's seen it used at various levels in a variety of towns; that it's great to have a budget but the best way to handle it is to require a pass-thru (possible ordinance change) that the applicant will pay for the third-party review. He added that that is what most of the towns do that we work with.

Mr. Cieleuszko said that we have that for subdivisions; that they pay it, up front, and get it back if it's not used.

Mr. Whalen agreed but not for other applications; that we might have safety issues, public concern, etc. and we're being asked to make a judgement call on that, left to our own devices rather than retaining a third-party advisor to assist us and help us maneuver through that minefield.

Mr. Feldman agreed and suggested the PB look to amend the Site Plan Review portion of the ordinance to include that wording. He discussed the levels of expertise they might need, whether it is a quick review by someone like him or, being an MS4 Stormwater town, a professional engineer.

Mr. Whalen said that it gets back to this application process; that when that applicant first appears on the scene, he thinks it's critical for that discussion between whoever has eyes on first, and the applicant, to advise that because of the complicated issues that 'this' application is bound to address, it could very well go to a third party and the applicant could be asked to front the bill on that.

Mr. Feldman agreed, saying that he deals with a lot of engineering firms and they're all used to that; that they aren't insulted by that.

Mr. Lentz suggested that that is something that could come out, right up front, when the PB gets the memo, to say we might need additional engineering review.

Process within the Agenda Memo

Mr. Feldman said that this described how a project would flow through the PB process.

Mr. Lentz said that he thought it was good. He added that, before we get off of checklists, he discussed Ms. Bennett's worksheet; that he thinks it covers a lot of the areas that we are all interested in; that there are a couple others he suggested that Ms. Lower look at this, from an administrative standpoint, because she is chasing tails on some things, too, and if that information had been there, right up front, we wouldn't be chasing tails. He added that he thought Ms. Bennett has done a good job and he has asked her to continue it for the time being. He added that this is internal to us.

ITEM 9 – CORRESPONDENCE AND PLANNING ASSISTANT

Mr. Cieleuszko said, regarding signs, septic, etc., that the PB has an initial duty to tell an applicant, because they are supplying this type of thing on their plan as part of the Site Review, whether they are heading in the right direction or not. He added that there's a big difference between enforcement that the PB should not tread on and letting the applicant know there is something wrong in the plan that will cause the applicant problems with permitting for things outside our purview to approve.

Mr. Lentz said that he would do some research; that at one time we were very specific about signs and we gave over the dimensional piece because we were told it was better handled by code enforcement. He added that it was his assumption, since then, that the CEO was reviewing the applications for that information; that he could be wrong and would do some research.

Mr. Cieleuszko said that if someone comes through planning and development and wants a sign, as an example, they go to the CEO, they don't come to the PB; but, if a sign is part of a project and it's sitting right in front of us – the dimensions of the sign, everything, is right there – as part of a site review plan and we don't tell the applicant it's the wrong size, etc....we want them to be aware of what they can do and what they can't.

Mr. Bouchard said that he disagreed because it's an ordinance that we don't have purview over and, if we give the wrong information, then we're liable; that we have to kick them back to the authority and the question Mr. Cieleuszko is asking he thinks should be caught in the planning stage of the application. He added that, if someone has a sign, they need to see the CEO and the CEO will tell you what you can have and what you can't have.


After further discussion, Mr. Lentz reiterated that he would do some research on the role of the PB and the planning department in this matter.

ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING

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

ITEM 11 – ADJOURN

There was a motion and a second to adjourn the meeting at 8:54 PM.



Dennis Lentz, Chair
Date approved: 2/20/18

Respectfully submitted,

Ellen Lemire, Recording Secretary