

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: Jeff Duncan, Larry Bouchard, Dennis Lentz, and Greg Whalen.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – REVIEW AND APPROVE MINUTES, AS NEEDED

Mr. Lentz moved, second by Mr. Duncan, to approve the minutes of April 5, 2016, as amended.

VOTE
4-0
Chair concurs

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

No “Notice of Decision” letters were reviewed.

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

A. Public Hearing – and continued review of an application for site plan review to establish a yoga studio at 88 Beech Road for up to 12 classes per week. Applicants/owners are: Jonas Zev & Amylyn Amberger (mailing address: 88 Beech Road, Eliot, Maine 03903). Property can be identified as Map 21/Lot33 and is located in the Suburban Zoning District. (PB16-2)

Mr. Ryan McCarthy (Tidewater Engineering & Survey) and the applicants were present for this application.

7:08 PM - Public Hearing opened.

No one from the public spoke on this application.

7:09 PM - Public Hearing closed.

Mr. McCarthy summarized the project:

- 24’X36’ addition to existing barn (second floor will house the school for yoga),
- First floor open for goats/chickens to seek shelter from the weather.

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BY *Nindy Rawski*
Town Clerk

- Two classes per day/ one in the morning and one in the afternoon,
- Maximum class size 20 students.
- 20 parking spaces, with 19 in proposed parking space and 1 handicap space at barn,
- Natural buffer along front and sides of parking area,
- Additional fence on end of parking area w/evergreen shrubs along outside of fence to provide additional screening for the abutter to the southwest.
- Parking area will impact 1,300' of forested wetlands and are exempt from State permitting,
- Forested wetland not classified as wetlands by Eliot Town ordinance so no Town permit needed, either.

He added that we have addressed all the comments from the Town (site plan checklist), at this point, and would answer any questions the PB has.

Mr. Lentz asked if we did not receive a response from the Police Chief.

Ms. Pelletier said that that was correct; that he doesn't usually have comments with this type of application.

Mr. Beckert said that the Fire Chief and Public Works Director had no comments.

Mr. Duncan moved, second by Mr. Bouchard, that the Planning Board approve 16-2, as amended and presented, with the following standard conditions of approval:

1. The property may be developed and used only in accordance with the plans, documents, material submitted, and representations of the applicant made to the Planning Board. All elements and features of the use as presented to the Planning Board are conditions of approval and no changes in any of those elements or features are permitted unless such changes are first submitted to and approved by the Eliot Planning Board
2. The permit is approved on the basis of information provided by the applicant in the record regarding the ownership of the property and boundary location. The applicant has the burden of ensuring that they have the legal right to use the property and that they are measuring required setbacks from the legal boundary lines of the lot. The approval of this permit approval in no way relieves the applicant of this burden. Nor does this permit constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title issues. The permit holder would be well-advised to resolve any such title problems before expending money in reliance on this permit.
3. The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.

VOTE

4-0

Chair concurs

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.

B. Request for Planning Board Action to amend a previously-approved conditional use permit by constructing a 22'X24' building addition, 10'X25' dumpster pad, and a 5'X20' materials shed at 814 Harold L. Dow Highway. Applicant is Sturgeon Creek Enterprises, LLC (mailing address: PO Box 393, Eliot, Maine 03903). Owner is AJM Enterprises, LLC. Property can be identified as Map 79/Lot 22 and is located in the Rural Zoning District. (PB16-4)

Mr. Matthew Dupuis was present for this application.

Mr. Dupuis said that we want to do an addition to the side of the existing building, have a dumpster pad out back to keep the property neat, and a little material shed on the side of the addition.

Ms. Pelletier clarified that the use is the same as what was just there; so, they are just looking at expanding the existing use. She added that it was approved as a business office in 2001, which is exactly what she would classify this request as; even in the same line of business.

Mr. Beckert said that this is the same building that RooterMan was in.

Ms. Pelletier agreed.

Mr. Lentz asked if this was non-conforming because of the frontage.

Ms. Pelletier said that it is non-conforming because of the size; that it's undersized.

Mr. Whalen asked if we had a fully-engineered plan on file.

Ms. Pelletier said that we do not; that, at this point, it's just a sketch plan so it doesn't need to be yet. She added that, if the PB wants him to do that, then that's what this meeting is for. She said that the PB could go to the next level of review or they can handle it administratively.

Mr. Duncan asked what was going on here, now, with this project.

Ms. Pelletier said that the previous occupant has left, the building was sold, and they are now going to be the tenants; that they want to move their existing business from where Morgridge is, now, down the street to 'this' building; that they will be the sole tenants.

Mr. Bouchard asked if this was a business or a garage.

Ms. Pelletier said that it is a business office, which is like for contractors to run a plumbing business or an electrical business, have their business trucks parked there, and their office inside.

Mr. Bouchard asked if anything would happen in the garage as far as repairs and storing of oil and grease, or anything like that.

Mr. Dupuis said no; that we are not an autobody, we are sewer and plumbing.

Mr. Bouchard asked if there would be any truck repairs there.

Mr. Dupuis said it would just be on our own when we need it; that, other than that, it's just a normal shop where we park our business vehicles.

Mr. Bouchard asked about changing the oil in the vehicles.

Mr. Dupuis said sometimes.

Mr. Whalen asked for clarification of what the PB's options are in moving forward with this application.

Ms. Pelletier said that, as in any amended site plan application, you can decide you want to handle it administratively, without a public hearing and further plans, and approve it that way, or, the PB can decide they want to require site plan review, which would require the next phase of engineered plans, etc.

Mr. Lentz asked if the entrance/exit was off from Ambush Rock Road.

Mr. Dupuis agreed, adding that there was an on/off on Route 236.

Discussing the commercial lease agreement, Ms. Pelletier said that the owner has authorized; that there is a letter in the file authorizing the changes.

Mr. Duncan said that he understood 'dumpster pad', asking what is 'utility pad'.

Mr. Dupuis said that we would store plows, and the like, in the fenced-in area; that that way it is out of sight and closed up. He added that there would be no electrical, internet, or anything like that there.

Mr. Lentz said that we have a blank on the checklist regarding areas of excavation and grading.

Ms. Pelletier asked Mr. Dupuis if he was doing any excavation or grading of the property.

Mr. Dupuis said just where the slab for the addition would go and where the dumpster would be.

Ms. Pelletier said that, in the next phase, the applicant would have to add that to the plan to make it complete. She added that that was the only thing that was missing from the list of requirements, in her opinion.

Mr. Duncan, discussing the building additions to the site, asked if there was a problem with multiple buildings on this site.

Ms. Pelletier said no; that she didn't know that there would be multiple buildings, asking the applicant if they were all going to be connected.

Mr. Duncan said that the application says that the pipe shed is free-standing.

Mr. Dupuis clarified that that shed would be next to, but unattached, to the addition.

Ms. Pelletier added that the shed is an accessory structure, anyway; that you could have two principle structures on one property, also, but she wouldn't classify that second one as a principle, she would just call it accessory.

Mr. Duncan said that the issue we had previously with another applicant was that the second detached building use was in question.

Ms. Pelletier agreed.

Ms. Horner asked why the addition doesn't automatically trigger a site plan review.

Ms. Pelletier said that it is optional and what this meeting is for; that it is at this point where the PB decides if 'this' is enough or do you want more; that not every situation is the same, which is why you have to decide every time.

Mr. Whalen asked if there are any proposed changes to the septic system.

Mr. Dupuis said no; that no additional bathrooms were proposed. He added that they were only adding garage space to store another vehicle.

Mr. Duncan asked if the additional floor space required additional parking.

Ms. Pelletier said that, under "Commercial/Industrial: uses not specifically enumerated", it is one space for each employee anticipated to be employed on the largest shift. She asked if they had customers coming in and out.

Mr. Dupuis said not really; that we go to the customers.

Ms. Pelletier said that she thought that would be more appropriate; that the only on-site traffic would be the employees, as they are a service company and go out on calls to people's homes.

Mr. Duncan asked if this was just a one-shift operation or do you go out in the middle of the night, as well.

Mr. Dupuis said that we do go out during the night but we take trucks home; agreeing that we are on-call but not necessarily from 'this' location.

Mr. Bouchard said that, on this location, trucks parked, asking if they plowed; sand, salt, material, fill, anything that will be stored on this site besides trucks.

Mr. Dupuis said nothing would be stored on the site besides the trucks.

Mr. Beckert said that before going too much further, the PB needed to decide whether they were going to handle it as an administrative change to an already existing application, which is basically the same use or require site plan review.

Ms. Horner said that she felt it was more than an administrative change but being a less-experienced member, if more people on the PB felt it was an admin change, then she would be comfortable doing it that way.

Ms. Pelletier asked if there was some specific information Ms. Horner would like to see.

Ms. Horner said no and that's the problem; that that's why she feels it could be an admin change.

After further discussion, Ms. Pelletier suggested that a compromise could be that you could do the administrative route but require an 'as-built' plan to be submitted once construction is complete to make sure everything jives with the approval. Additionally, she said that this location does not abut any residential structures and it is in the Rural Zone.

Mr. Whalen said that, as these applications for amendments cycle through, he thought our preference has been to have the applicant provide a 'bonafide' plan, certainly one step above sketch plan and once you have multiple changes to a site, asking if we can satisfy both the expedited process of moving the application forward while, at the same time, updating our documents file by doing what Ms. Pelletier suggested, which is adding the condition that, prior to a certificate of occupancy, the applicant submit an 'as-built' of the site so that we have something in-file that documents exactly what's there.

Ms. Pelletier said that that is nice, she agreed; that she and the CEO have found that that always works well; that having the 'as-built' is good and like closing the final chapter in the approval.

Mr. Beckert asked for the rest of the PB to give input.

Ms. Bennett agreed with Mr. Whalen regarding the 'as-built' plan; that she didn't believe a sketch plan fully met our requirements and is a good opportunity to update our land records; that if there is another administrative appeal/request, then we would have a base to work from.

The other PB members agreed.

Mr. Beckert said that what he was hearing is that the PB would consider this an administrative change with the condition that, upon completion of the project and prior to the issuance of an occupancy permit, 'as-built' drawings be provided for the site.

Mr. Bouchard asked, if we are going to require this of this application, what is the standard we are going to work off of.

Mr. Beckert said it depends on the application; that the court will tell you that it stands on its own merits.

Mr. Duncan said that he thought that, basically, the criterion is whether it is a significant change; does it result in a significant amount of additional impervious surface or significantly not in tune with the neighborhood, etc.

Mr. Bouchard asked what the standard was that would kick us to require this or ask for it; is it a decision we make.

Ms. Pelletier agreed that it was; that a precedent wasn't being set because you don't have that ability; that each application is judged on its own merits.

Mr. Duncan moved, second by Mr. Lentz, that the Planning Board treat PB16-4 as an Administrative Change incorporating all previous conditions for the site and adding that a Record Drawing upon completion of this proposed change be submitted prior to issuance of a Certificate of Occupancy.

VOTE

4-0

Chair concurs

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

- **Draft #3: Proposed Amendments to Chapter 45, Zoning, and Chapter 1, General Provisions, of the Municipal Code of Ordinances of the Town of Eliot, Maine, to allow accessory structures meeting minimum setback requirements in the front yard.**

Mr. Beckert said that he still doesn't like the two front yards on a corner lot; that there has to be some determination of what the front yard actually is.

Ms. Pelletier said that she thought the purpose was that, if it's visible from the street, you have the same amount of screening on all sides; that, otherwise, you would have one that has lots of screening and, then, the sides are all open; that it makes sense that you could have more than one front. She added that, for zoning purposes, if the purpose is to be shielded from view, then why wouldn't that apply on all sides abutting the street.

Ms. Lemire asked if this would apply for residential.

Ms. Pelletier said yes, or why have a setback at all. She added that you don't want to get into what angle the house is at or the front door; that that's not the problem, here, it is the front yard setback; that the 'no construction' is too restrictive for some people.

Ms. Pelletier said that she decided to scrap all of the agricultural stuff at this time; that she took out any reference to it because she doesn't want this to get too complicated. She added that, for the purposes of this ordinance she found she wanted to keep it simple, if that was okay with the PB; that she threw it in there because she thought it was something she wanted to address at the same time, and this would make sense to throw it in there, but she was finding that it was getting too complicated.

Mr. Whalen asked where it went from here.

Ms. Pelletier said that she is going to send it back to the BOA, if that is okay with the PB, and get comments from them. She added that we have the title of the article and can amend this ordinance, if needed, up to 10 days before Town Meeting. She also added that we can have another public hearing at any point, if the PB wants to.

Ms. Horner asked if 'these' diagrams are something we could put on the Town website.

Ms. Pelletier said absolutely.

Mr. Bouchard asked, using Example 4 Diagram, if someone could put a garage, dead center, right on the line of the front yard setback in front of a house.

Ms. Pelletier said no, not if it's detached; that if it comes out one inch from the line of the house, you can't do it today.

Mr. Bouchard clarified that he was applying the new ordinance.

Ms. Pelletier said that, with the new ordinance, you could; that you just need to be outside the 30-foot setback; that that will be legal.

Ms. Lemire asked, using the Village as an example, if there were many lots that would have an issue with the 30-foot setback.

Ms. Pelletier that, if it's a non-conforming lot, that is a completely separate set of rules; that they would already be within that most of the time in South Eliot so there's provisions for non-conforming accessory buildings that are completely separate and apart from anything having to do with this change. She added that this would be for conforming lots only.

The PB agreed this could move to the BOA for their comments.

- **Libbey/Falzone v. Town of Eliot: Plaintiff's motion to stay of action granted.**

Mr. Beckert said that a stay of action for 120 days has been granted.

Ms. Pelletier said that Ms. Bennett is going to the MMA PB/BOA Workshop in June. She added that she would print out the schedule and put it in everyone's box.

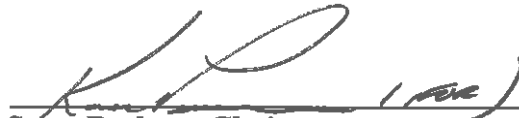
Ms. Horner said that the Business Development Committee is planning an event May 25th for business owners at the Regatta.

ITEM 9 – SET AGENDA AND DATE FOR NEXT MEETING

The next regular Planning Board Meeting is scheduled for May 3, 2016 at 7PM.

ITEM 10 – ADJOURN

There was a motion and a second to adjourn the meeting at 7:50 PM.


Steve Beckert, Chairman
Date approved: 5-2-16

Respectfully submitted,

Ellen Lemire, Recording Secretary