## ITEM 1 - ROLL CALL

Present: Dennis Lentz - Chairman, Ed Cieleszko, Christine Bennett, Melissa Horner, Carmela Braun, Bill Olsen – Alternate.

Also Present: David Galbraith, Interim Planner; Kristina Goodwin, Land Use Assistant.

Voting members: Dennis Lentz, Ed Cieleszko, Christine Bennett, Melissa Horner, Carmela Braun, and Bill Olsen – Alternate.

NOTE: Mr. Lentz appointed Mr. Olsen as a voting member for tonight's meeting.

## ITEM 2 – PLEDGE OF ALLEGIANCE

## ITEM 3 – MOMENT OF SILENCE

## ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION

There was no public input.

## ITEM 5 – REVIEW AND APPROVE MINUTES

Ms. Bennett moved, second by Mr. Cieleszko, to approve the minutes of January 21, 2020, as amended.

**VOTE**
**5-1 (Mr. Olsen abstained)**
**Motion approved**

## ITEM 6 – OLD BUSINESS

**A. Update from Planning Office regarding ordinance amendment to Chapter 44 – Shoreland Zoning - §44-34 – Table of Land Uses**

Mr. Lentz said that this has been around awhile. There are only two changes in this and, if the PB agrees and approves, we could bring this to a Public Hearing at the next meeting. The changes are to add 'multifamily dwelling' and delete 'multiunit residential'.

Mr. Galbraith said that, online, the State does use the 'multifamily dwelling unit' term. Their definition is slightly different from ours – they are a four-unit and we are a three-unit.

**The PB was in agreement to this change to Chapter 44 – Shoreland Zoning - §44-34 – Table of Land Uses.**

## ITEM 7 – NEW BUSINESS

There was no new business.

## ITEM 8 – PUBLIC HEARING(S)

The purpose of these amendments is to clarify and/or update definitions and update the Table of Land Uses. The public hearing process was explained.

**A. Amendment to existing ordinance: Chapter 1 – General Provisions, §1-2: Definitions and rules of construction.**

**7:12 PM Public Hearing opened.**

This was to define and clarify land uses and rules of construction not currently defined in Chapter 1.

The PB approved of the cover page format that shows the ballot language, what the article will do, and the rationale/background.

There was no public comment.

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

**Ms. Bennett moved, second by Mr. Cieleszko, that the Planning Board move to the Select Board for consideration the amendment to Chapter 1 – General Provisions, §1-2, Definitions and rules of construction.**

**VOTE**
**6-0**
**Motion approved**

**B. Amendment to existing ordinance: Chapter 33 – Planning and Development, §33-189: Non-profit Medical Marijuana Dispensaries and Registered Primary Caregivers.**

**7:18 PM Public Hearing opened.**

This amendment is to align the 'public facility' definition in the Medical Marijuana Ordinance to be the same as in the Adult Use Recreational Marijuana Ordinance to make the 'public facility' definition consistent in both ordinances.

There was no public comment.

**7:20 PM Public Hearing closed.**

**Ms. Bennett moved, second by Mr. Cieleszko, that the Planning Board move to the Select Board an amendment to the existing ordinance Chapter 33 – Planning and Development, §33-189: Non-profit Medical Marijuana Dispensaries and Registered Primary Caregivers.**

**VOTE**

**6-0**
**Motion approved**

**C. Amendment to existing ordinance: §45-290 – Table of Permitted and Prohibited Uses.**

**7:21 PM Public Hearing opened.**

Ms. Horner said that she thinks there was an oversight regarding 'animal husbandry' to do with footnote annotations for the different zones. In the Suburban Zone, the footnote is listed as #12 and it should be #1.

Mr. Pomerleau asked, regarding the land use "accessory dwelling unit', what 'CEO' across the zones meant.

Mr. Lentz clarified that approval or disapproval was a decision of the Code Officer.

Ms. Bennett said that this draws from the code.

Mr. Galbraith added that, if the applicant applies for something and doesn't agree with the CEO, that can be appealed to the Board of Appeals.

The criteria for this ordinance are in the code.

**7:22 PM Public Hearing closed.**

**Ms. Bennett moved, second by Mr. Cieleszko, that the Planning Board move to the Select Board for consideration an amendment to §45-290 – Table of Permitted and Prohibited Uses to include the footnote amendment to 'Animal Husbandry', as discussed tonight.**

**VOTE**
**6-0**
**Motion approved**

**D. Amendment to existing ordinance: Animal Control Ordinance – Chapter 61, §61-2: Definitions.**

**7:26 PM Public Hearing opened.**

Ms. (Sarah) Plocharczyk said that the proposal looks good and I agree with the changes proposed with the definition of 'animal husbandry', as well as 'livestock', and the revision to the definition of 'domestic animals'. I thank the PB for their work on this.

Mr. Lentz thanked her for her help and input on this amendment.

Ms. Goodwin clarified that "Park" was repositioned to be in alphabetical order, only, and is why it is in bold. There was no change to this definition.

There was a question as to how this would be coded, if approved.

Ms. Goodwin clarified that the intent, once approved, is to have this go through the same process all other ordinances do. The Town Clerk pushes it to MuniCode to load into the municipal code.

There was no public comment.

**7:31 PM Public Hearing closed.**

**Ms. Bennett moved, second by Mr. Cieleszko, that the Planning Board move to the Select Board for consideration an amendment to the existing Animal Control Ordinance – Chapter 61, §61-2: Definitions.**

**VOTE**
**6-0**
**Motion approved**

## ITEM 9 – WORKSHOP

**A. Workshop with the Aging-in-Place Committee to discuss Accessory Dwelling Unit Ordinance.**

Members of the Aging-in-Place Committee were present.

Mr. Lentz said that the PB would like to get your input on any ordinance changes you may have run a cross or any need for changes you may have run across. In particular, we have been discussing accessory dwelling units, trying to collect ideas, and would like input from your committee.

Mr. Cieleszko said that I would like to know their feelings or what they think the needs are of the Town regarding ADUs.

Ms. (Ellen) Cepetelli, Chair, AIP), said that this was not mentioned in our survey but it did come up at both of our public hearings. The concern was why there was a limit to 650 square feet, which is something I would be concerned with. The other is that there are definitions used by the AARP that I think are clearer. In §45-459, the definition is: "(a) An accessory dwelling unit (ADU) is a small apartment which is part of an existing or new single-family owner-occupied home, and which is clearly secondary to the single-family home." In the AARP book on ADUs, the definition it says they share a single-family lot. I think that's more specific and really does describe what it is. In our ordinance under (c), it says "The accessory dwelling unit shall be located in the same building as the principal dwelling unit or in a building accessory to the principal dwelling unit." and that seems contradictory to me with (a).

Mr. Olsen asked what size she would recommend.

Ms. Cepetelli said that she didn't know. She sees that they go up to 1,000 square feet but she isn't an expert and wonder what the impact would be to the Town if it was bigger. The issue was why, if you have a particular space that may be larger, why you can't use all of it but, instead, would be forced to block a portion of that space off.

Ms. (Nedra) Sahr, AIP member, said that we have someone in our neighborhood that has that kind of situation and has had to build a wall, leaving a big empty room. Literally, it seems a bit unfair having to sequester his relative in a smaller space. My point is that it is taking place now in Eliot.

Mr. Cieleszko said that I have reservations about raising the size because, once you get over 650 square feet, you can turn an ADU into a second residence and that's tough on the neighborhood. An ADU was not intended to raise a family in but the original intent was for aging parents. The next intent was for an aging relative to try to stay in the house to rent out an apartment, per se, without adding another family to the neighborhood.

Ms. Horner commented that the Town of Eliot would, in no way, encroach on Fair Housing laws. It's a big no-no, legally, to impose family discrimination on rental units, etc. The restriction we have, which I still think is against Fair Housing, is the restriction to two people only. Additionally, our ADU Ordinance gives the option that the owner of the home could move into the ADU. So, if you play that out, what if there are three people living in my house. Now I can't even move into the building I just built because of our ordinance.

Ms. Bennett said that I would speculate, regarding the restriction of two people, that the restriction we have of two people is probably tied to our restriction of square footage, asking if it should be. I appreciate that 650 square feet may be limiting, especially if you are trying to convert an existing structure, or you may want to have more than two people in the ADU. I also recognize that there is another piece to the genesis of our ADU ordinance that has it playing a role in providing a form of affordable housing in our community and, as you get larger structures, the price of those goes up, As an example, you have built an ADU and want to use it as a source of income to help support you to continue to stay in your homes. You might rent the ADU out to stay above social security income and live in your home. If it's a 650-square-foot residence, then it's going to be affordable housing in our community, which we know we are in desperate need of. 1,000 square feet may not be affordable to a young couple coming into our community. I would advocate for maybe creating another tier. We currently have a limit of how many ADUs we can have per year. We have come close or reached that number (12) and she would advocate splitting it up to say six at 1,000 square feet and six at 650 square feet so that we can still have these smaller units being developed in our community and not placing a restriction on larger ones for, as an example, two adults and a child in an ADU behind their parents' house.

Mr. Olsen said that another thing I think we should consider if we're going to raise it from 650 to 1,000, or whatever is, if you are in the rural section and have three acres of land, 1,000 is probably fine. If you are in South Eliot on Pleasant Street where everything is pretty congested, we should probably tier it based on where you are. I think limiting it to two people is a bad idea and bad policy – if a couple had an infant then they would have to move out. That's silly and creates unnecessary angst there but I do think, where land is much more open, we're not worried about creating a density issue or public concern over more cars. I also don't agree to restricting the number of ADUs to 12.

Ms. Cepetelli read from the ADU ordinance: "(13) Occupancy of an ADU shall be limited to the following: No more than two persons may occupy a unit of 300 to 400 square feet of gross floor area; no more than three persons in a unit ranging from 401 to 600 square feet of gross floor area; and no more than four persons in a unit of 601 square feet or greater of gross floor area." So, right now, it's not restricted to two.

There was further discussion regarding the Fair Housing laws and how those might apply to this. It was suggested that it might be a good idea to pull that together to see how it would apply/impact to this ordinance.

Mr. Lentz added that we could get legal opinion as we move through potential development of this topic.

Mr. (Ron) Cepetelli, Committee member), asked who determines whether the size of the ADU is okay.

The PB said that it was Code Enforcement, which also includes other requirements to be met.

Mr. Cepetelli asked if there were any rules or laws about people renting bedrooms out of their house to a friend, as an example.

Mr. Lentz said that he was not aware of any.

Ms. Lemire said that we do have 'boarding house' in our code.

Mr. Cieleszko said that they haven't been addressed through PB application.

Mr. Cepetelli asked whether, if someone had a 900-square-foot-room, the CEO could make an adjustment on that.

Mr. Cieleszko said that you would have to show the CEO that you have chopped off enough to meet the 650.

Mr. Lentz said that boarding in the Table of Land Uses is called 'lodging' – "Lodging businesses, including bed and breakfasts, *boarding* homes or *houses*, hotels, inns, lodging houses, rooming homes, and the like" and they are allowed with PB review.

Ms. (Gail) Licciardello, committee member, had a question about §8 – "When any property containing an accessory dwelling unit is sold or transferred, the new owner must continue to meet the requirements of this Section in order to continue the use of the accessory dwelling unit." That seems a little off to her and may make it a little hard to sell. Do they have to board it up if they're not going to use it.

Ms. Horner said that her interpretation of that was that they need to maintain the requirements if they want to continue to use it as an ADU. So, if they bought the house and wanted to knock a wall done, then it wouldn't be an ADU anymore.

Ms. Bennett added that when you create an ADU, you then have to record at the Registry of Deeds that your property now contains not only a single-family home but an ADU.

Ms. Licciardello said that you don't necessarily have to use it.

Ms. Bennett agreed. The use would discontinue, If the next owner, in order to continue to have that legal right, would need to adhere to the ordinances.

Ms. Licciardello said that that makes perfectly good sense.

Ms. Horner discussed her concern regarding the lease wording in §8, which says – "However, any lease in effect at the time of transfer may be continued until it expires or up to one year from the date of the transfer, whichever is shorter." She didn't think that the Town should have leverage over peoples' private business dealings.

Mr. Cieleszko said no but it gives you the right to keep the ADU active, if there's an active lease on it. In reading the section, as a whole, it gives the tenant the right to keep the lease for up to a year even if the owner doesn't keep the ADU up to standard.

Mr. Lentz asked if we incentivize any of these. Is there a reason we should dangle a carrot out in front of people who need to do that to build these.

Ms. Horner said their own financial well-being, which is a pretty big incentive.

Mr. Cieleszko agreed, saying that he thinks the market can handle this one.

Ms. Bennett said that I think we probably go through and look at Ms. Horner's notes regarding setbacks, etc. There's some inconsistencies or limitations put on ADUs that are not put on single-family homes in terms of sideline setbacks, rear setbacks, and things like that we might be able to clean up to make it easier for someone who wants to create an ADU.

Ms. Horner said that ADU's have to follow the dimensional standards in §45-405, which are stricter. Regarding sewer (especially the Village), it makes sense to her to have less restrictive setbacks and lot coverage for ADUs because they are on sewer versus the individual septic systems.

Ms. Bennett agreed that we could look through the dimensional requirements incorporating consideration for the sanitary waste disposal issue, such as having enough space to put in a septic system, and the Village has its own peculiarities. The other thing about the setbacks, though, is not only the ecological logistics of whether the lot can accommodate another dwelling unit but there is also the consideration of neighbors. That is a setback issue, too. In my instance, I have a non-conforming lot of record and I'm building a 575-foot ADU. My home is within 12 feet of my neighbor with an existing home but, with my ADU, I was going to have to be 20 feet from the sideline. For the ADU, it had more setback than my single-family home and that is why I had to go for a waiver of that dimensional standard. I found it very difficult, and I'm on the PB, to go through our ordinance, figure out where it applied to my situation, and how it applied. The BOA had a bit of a problem with it, too. It was not a clear-cut process. I think we could make this a little bit easier for someone who is considering do this, to have it spelled out in a clear-cut, understandable fashion.

Mr. Cieleszko said that, in general, I like the idea of possibly changing the footprint, determined by zone, with 650 sq. ft. in the Village, with Rural lots maybe going up to 1,000 sq. ft. Regarding dimensional standards, I'm not getting the point about them being more stringent than a regular house. When it's a separate structure, if it's over the garage, it has to meet the requirements of an accessory structure. When it's in the main house, it has to meet the requirements of the main house. If you are non-conforming, my assumption is that the ADU, because you're applying for one, would have to have the waiver just like Ms. Bennett did to get its clearances for whatever deficiencies there are for setbacks. An accessory building is only 10 feet.

Ms. Bennett clarified that 10 feet was adequate for a garage but I needed 20 feet for the ADU, which is in the garage.

Mr. Cieleszko said that that should be addressed because there is no way that should be that way.

Mr. Galbraith said that Kittery has an ADU ordinance, which isn't bad. It reads "Unit size. The habitable floor space of an accessory dwelling unit must be a minimum of 400 square feet and no larger than 800 square feet." But they also pull out different standards, such as the driveway or ROW has to meet the additional traffic, have your septic system, enough water for it. Kittery's ordinance would at least be a good starting point to consider. They also have lot standards – no more than one ADU per lot, property owner must live in one of the structures, etc. There is no way you can regulate who is going to live in it once it's built and, also, trying to regulate it and how many people are actually living there is usually limited by the size of the unit, and setbacks are another limiting factor. Kittery's ordinance talks about if you have a non-conforming structure then it has to be attached or in conformance inside the existing structure so there is some flexibility with it.

Mr. Lentz said I don't think they are finished with theirs yet. There were some good things in it and some things that I had to think about and challenged me.

Ms. Horner said, regarding the size, that that really struck me. I help folks of a certain age with this sort of a thing on a daily basis. When people are remodeling homes, they have to give themselves space for wheelchairs, walkers, beds. When you go into a bathroom that is handicap accessible, it's huge and hallways need to be bigger, doors need to be bigger, and all of that chews away at living space. Now you can't have Christmas, as an example, because there's no room for anybody to be in your apartment. Helping these people and seeing their needs is what got me thinking about the 650 feet. It's really tight, especially when you have medical equipment and people coming in. The other point made tonight regarding square footage is if you have a two-car garage, with the standard being 30'X30', there's 900 feet and you can't do anything with it.

Mr. Cieleszko said that he appreciates that and agrees with Ms. Horner wholeheartedly.

Ms. Horner said that she understands that not everybody is going to need that but it seems as though it would be wise not to restrict it for those that do.

Mr. Cieleszko added that he sees that districts are important in establishing how big you can get.

Ms. Bennett said that we already have a lot coverage provision. Not all lots in the Village District are really small and, if you have a larger lot and what you propose will not come up against lot coverage, then why discriminate against the size just because it's in the Village.

Ms. Lemire said that at some point the Village, and with sewer going through it, the Comprehensive Plan suggests down-sizing the lots from 1 acre to ½ acre so that could impact what you are talking about, as well.

Mr. Olsen said that the other thing I think we should at least mull over is the ability to be able to rent out, as he thinks we prohibit that right now.

Ms. Horner read from §45-459 (a): "The accessory dwelling unit may be rented so that the owner-occupant may benefit from the additional income. The owner may also elect to occupy the accessory dwelling unit and rent the principal dwelling unit."

There was clarification that whichever structure the homeowner lives in is the principal residence and the other structure (home or ADU) can be rented out.

Mr. Olsen asked if we have anything in the ordinance that prohibits "home-away" so that we don't have new people in there every week. I think that could be a potential problem where the desired effect gets taken away. It is becoming a big problem in York where people are buying these homes (waterfront, especially) then renting them out every week to different parties/groups. I think this is not what we want for our community.

Mr. Lentz said that I think Kittery had a solution to that. It had something to do with time in a lease – a minimum of three months.

Ms. Bennett said that I think that may have been shot down.

Mr. Cieleszko said that the neighbors have to be considered in this, the impact to them. There have to be protections for the neighbors. While I now understand that ADU's need to meet primary structure standards and the impact that can have, I still have reservations about letting the footprint get bigger in the Village District. It's a chaotic district and a lot of old places. I think that once you get out into minimum 2- and 3-acre lots, it's a lot easier to handle larger units.

Ms. Cepetelli said that the booklet ABC's of ADUs from the AARP are free and full of valuable information, such as how to avoid short-term rental issues.

Ms. Goodwin said that she has a link that she can give to the PB. The booklet is around 70 pages online. She will send them the link.

Ms. Cepetelli said that AARP will send the PB as many copies as they want, as well.

Ms. Goodwin added that she has had a couple of people call here with questions. They have kids with disabilities so it's not just elderly people you need a bigger space for. You also have families that want to give their adult disabled children some independence and be close enough if something comes up.

Mr. Cepetelli said that she talked with a woman who lost her husband about 10 years ago. Had some money. She's just about out and they had an ADU apartment above the garage that she let go. She's taking the rest of this money and upgrading the ADU so that that can pay her taxes so she can stay in her home.

Ms. Horner discussed the max lot coverage. In the Rural Zone, max lot coverage is 10%. In the Suburban, it's 15%. In the Village, it's 20%. So, Eliot by design is trying to create more chaos in the Village by allowing more lot coverage. When I was thinking through this, I wasn't thinking 70% but was thinking 25% or 30%, some incremental amount. It would be interesting to crunch the numbers regarding and average-sized lot an what a 30'X30' structure would do to that.

Ms. Bennett said that my lot is just shy of 20,000 square feet so less than a half-acre. A 1,000 square-foot house on it and a 600-square-foot garage. I have a huge ledge on the property and I'm not even close to my lot coverage.
Mr. Lentz said that that is a good example.

Ms. Bennett agreed, saying that we could pull it out and look at the site plan, etc. I am increasing the use on this property but I haven't hit the limits on lot coverage.

Ms. Lemire added that it's pretty-well landscaped on the property.

Ms. Horner said that the setbacks for every zone are the same.

Ms. Lemire said that a lot of the ordinances in our code have been developed to prevent sprawl, which was a big deal for a while.

Ms. Horner said that the interesting thing about the setbacks is that if you are on a 6-acre lot in the Rural Zone and your setback is 30 feet and, now, you are right next door to the neighbor's house. Whereas, if you are in the Village Zone, 30 feet is restrictive to maybe potentially doing anything.

Mr. Lentz said that that's almost what we heard in the Open Space discussions. We're trying to push it in the wrong direction. I think if we get all the points that Ms. Lemire copies in the minutes, that will give us a good start. I like what Ms. Horner said last time, and I think we should remember, that this isn't something we need to go in a blow completely apart. We can take it a little at a time, incorporate ideas, and just kind of modernize what's there. With the help of the AIP, we'll keep sharing information as we go along, and the AIP folks are welcome to come and sit any time. He thanked them for their help. He asked the AIP Committee to let the PB know if they run across any ordinances that they see are challenging.

Ms. Cepetelli said that we will be having a workshop with the SB on March 2nd to discuss the proposed senior property tax relief.

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Mr. Lentz asked what we were doing with the last copy of definitions.

Ms. Goodwin said that she gave that to the PB just for reference/review to confirm all changes were captured.

Mr. Lentz said that he had a conversation with Mr. Galbraith regarding all the waivers we did last time for the non-applicable standards. He wondered why we do that. It goes through the acid test in the Planning Department and they are not applicable. Do we need to waive them or do we say we are going to approve these because we've been guided in this direction. Do we need to challenge them and he asked Mr. Galbraith to review that.

Mr. Galbraith said that when you have an application, if you have a number of items that are listed as N/A, my recommendation was that the PB should be asked about the items that are N/A and does the PB believe that any of the items that the applicant has marked as N/A, actually are. If there is an item that the PB thinks is applicable, and the applicant thinks isn't, that can be pulled out. If the PB al agrees the items are N/A, I don't think you need to vote it. I think it just needs to be mentioned that the items are N/A and, therefore, you could vote on them to say yes these are all items we agree are N/A. Regarding waivers the applicant is seeking, you could ask if the PB believes there are items that need further discussion or vetting, then you could pull those items out for further discussion and approve, on mass, all the rest of them so you don't have to go through every one of them individually. Then you could open discussion on the other items, independently, and take a vote on those items the PB thinks need discussion

independently. That saves the PB and applicants a lot of time. You could go down every item but, if it's N/A, I wouldn't do that.

Mr. Cieleszko said that he likes that we have a vote, on mass, of the N/A items, another vote for the waivered items, then individual votes on anything that's been pulled from the list.

The PB agreed and were in favor of that process.

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Ms. Horner said that, after the last meeting, I was still unclear as to why we don't need to change a use of a property or add a use to a property from the get-go. Generally, in my experience, when someone comes to the PB and wants to have a new business, if the previous business was that business then there's no change of use but, if the previous business was something different from what they are doing, that application use request has to be first approved, which usually isn't a problem because it's allowed. It's never been a stumbling block but that felt like a change last time.

Ms. Bennett said that I think that's a good procedural point. When you think about it, that's the reason they are coming to us.

Ms. Horner said that, sometimes, I know there can be an additional use to the business that's there but I think it's important to add the use because, in my thinking, that's a way to update that file. I don't remember the limit but there are so many years you can go back and, if it was the same kind of business, then you don't have to go in for a change of use. I ran into that on my property.

Ms. Lemire said that that will always be in the Findings of Fact (NOD) because that is a finding of fact but that paper trail of changes and use and growth are pretty important to be clear in the record.

Ms. Horner suggested maybe we have been doing it backwards and potentially doesn't matter. She asked if we didn't run into that with the approved application with the boat storage that we changed the use on. It seems like that's the same thing. Even though the business was allowed in that area we still had to change the use.

Ms. Bennett said that I would agree, as a procedure in talking about how we approach these applications, I would be in favor of addressing a change of use request before us, first, and then get into the particulars. We can go in and look to see if that proposed use conforms to land use.

Mr. Galbraith said that it might depend on the use you are going from – one use to another, a change in use. An example is a restaurant that wants to convert into a retail store – is that a big deal. Or, if it's going from a restaurant to a gas station – that fits a more intensive use and that's where you have the discussion. I have no problem with a

vacant space, for example, being converted into a retail store, or something of that nature. It would depend on the intensity of what's being proposed and I think you could almost do it in one where you are looking at the change in use and at the site plan that typically fits an existing site plan where we're not changing anything but, now, you're regulating just the change in use.

Mr. Cieleszko said that what I'm hearing is that you would like to have a determination of if that new use allowed in that district and get that out of the way first.

Mr. Lentz asked if this is a process question. Is it a point in the process that we are questioning when that happens. Or maybe not.

Ms. Horner said that it all needs to happen together but I think it's important that it gets acknowledged that we are approving the change in use. It does sort of half to happen all together. How can we say yes without knowing what that entails.

Ms. Lemire said that the change of use directs you to the particular criteria specifics.

Mr. Olsen said that what I think you are driving at is the application we are talking about where we had a type of storage change to another type of storage but they were in the zone where that was completely allowable, it was a permitted use. Then the other property, which has always been a garage and always used for vehicle maintenance was still the same. Do you think we just needed to acknowledge that a little better in our process.

Ms. Horner said I have been on this Board for nine years and I have this muscle memory that when someone comes in for a new business, such as a daycare that used to be a daycare, they don't need to get an approved use because it's going from daycare to daycare. If it was a daycare three years ago, then was vacant and that has lapsed, they have to come in for approval of use. We sort of skipped over that because it was an allowed use in that area.

Ms. Bennett suggested that we should verbalize that upfront.

Ms. Horner said that this is the first time this has happened and I just want to make sure we are all on the same page.

Ms. Goodwin said I understand completely what Ms. Horner is saying. If somebody comes before you and they have one use that's established on a piece of property and they have a site plan because they are changing the site, you need to acknowledge the use as that being a different use than what was previously there, then you also have to do the site plan to review the site plan because the site plan, itself, is changing. I think it's really important that you, as a Board, accept the use because when somebody comes in and purchases that property, I think it's a year that they then have to re-apply for it. If there's a daycare in there and six months later somebody wants to buy it, and you've accepted that as a use as a daycare center, they wouldn't have to go for the change of use,

however, if they were changing the site they would have to come to you for a site plan. I think the use piece is super important because when anybody comes in here and they're looking through the PB files, they want to know, even if it's a use that's lapsed, what the process was for the use to be accepted in the first place. I think the PB is right in the fact that the use should at least be acknowledged so that it's part of the record so, if somebody comes in and asks why 'this' was allowed, well, you are approving the site plan, right, but you are also approving the use that's going into that building as part of their application.

Ms. Horner said that we have 'similar to' and we have to decide, as a Board, if that is similar. We can't approve it as a similar use but need to be more specific, such as approving it as a school because they are teaching yoga.

Mr. Lentz asked if it should be on the initial application.

Ms. Horner said that I think it is.

Ms. Bennett said that I felt we left that hanging and we left the applicant hanging with that. We started diving into the site plan and those changes.

Ms. Horner said that it was in the last minutes and that's what made me think about it. It was sort of left that it's an approved use for the zone so we don't need to do it, which is fine if that's what we're going to do.

Mr. Cieleszko clarified that Ms. Horner was saying that she does want us to, as a Board, that the applicant is giving us a site plan with another use and we should say that's an approved use for that area, zone, or lot.

Ms. Horner added that we approve it because that saves us from those 'similar to' uses; that we need to approve the use.

Mr. Lentz said that if it's identified as a new use on the application and it goes through the planning cycle, then shouldn't we know by the time it gets here, shouldn't the applicant know, that that's an approved use.

Mr. Cieleszko said yes.

There was discussion regarding approval of uses 'similar to' that would come to the PB; that it should still be flagged by the Planning Department but would come back to us for a decision.

Mr. Lentz agreed that a 'similar to' decision is an exception and should come to us but not on every one I don't think.

Mr. Cieleszko said that the first conversation should be is it an approved use, whether it meets all the other requirements or not. With amending a site plan to change the use to a

'similar use', the Planning Department could say it is close but we'll let the PB decide. Once they come to us, you want us to make that determination first.

Ms. Horner said only if it's a change in use.

There was general agreement that it should be the first thing to verify that the use is approved for that lot.

Mr. Galbraith said that that's usually what would happen the first time with the Planning Department; that we would make some kind of determination. If a real estate agent or new client comes in and wants to open a convenience store the first thing we would do is to ask where they want to open it. Then we would say that, as far as the lot is concerned, that use is listed as a permitted use. It is then really criteria that gets down into it. Do you have your parking, do you have your 'this', do you have your 'that', what type of delivery vehicles (box trucks versus semi's), which could trigger other things.

Ms. Horner said that that's the initial, raw land use. I'm talking about a change of use where it's going from office building to a school or from a restaurant to a gas station. I just think that if we have an applicant coming in here that has bought a building that was an office building and then they want to put in a school, that's a change in use, so we have to approve that.

Mr. Cieleszko said or not approve it. That's the whole process, right.

Ms. Horner agreed but said we didn't do that the last time.

Ms. Bennett agreed that the last time we glossed over it. We just set it aside.

Mr. Cieleszko said that I don't remember that.

Ms. Horner said that it was in the minutes.

Ms. Lemire agreed. The statement was made that it was an allowed use in the zone and you said okay, and that was it.

Ms. Horner said that we didn't officially change the use. She was asking if that was alright. It was the first time we've ever done it that way so it felt weird.
Ms. Bennett said that I am with Ms. Horner with this. I felt weird about it, as well.

Ms. Goodwin said I feel like there needs to be a date when that use is accepted if we're going to say it expires after a year. If we don't have a record of when the use was established then how do you know. I feel like you guys are the stop-gap for uses so, if it's an oversight, and everybody is human in this building…but I think it's important that you guys are that stop-gap for the uses. Even if it's just an acknowledgement that the use is permitted, there is something on record that says that use was reviewed by you guys as a

Board. On the back side of things, it makes it easier when applicants are coming in and purchasing a property where there was a use established.

Mr. Galbraith said that if you are going from one retail to another or a dentist office to an optometrist, as examples, you are likely to get the same kind of traffic and not suddenly need a big modification to the building.

Ms. Horner said that those wouldn't be change of uses.

Mr. Galbraith agreed, adding that then you might have something where someone is saying they want to put in a drive-thru or they do want to change 'this' building from the Post Office to Dunkin Donuts.

Ms. Goodwin asked what the PB was going to do about the use when we go from Medical Marijuana to Adult Use Marijuana, and we are going to be facing that because there are going to be people that are approved for medicinal use and are going to change to adult use.

There was general agreement that moving from medical to adult retail was a change in use because one is a dispensary and the other is a retail store and that the PB would address that at the start of the process. It was agreed that the PB would address this at the beginning of the application process/review.

**ITEM 10 – CORRESPONDENCE**

There was no correspondence.

**ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING**

The next regular Planning Board Meeting is scheduled for February 18, 2020 at 7PM.

**ITEM 11 – ADJOURN**

There was a motion and a second to adjourn the meeting at 8:48 PM.

**Dennis Lentz, Chair**
**Date approved:** 2/18/2020

**Respectfully submitted,**

**Ellen Lemire, Recording Secretary**