

**ITEM 1 - ROLL CALL**

Present: Dennis Lentz - Chairman, Christine Bennett, Ed Cieleuszko, Melissa Horner, and Casey Snyder - Alternate.

Also Present: Emily Cole-Prescott, Town Planner.

Absent: Larry Bouchard (excused).

Voting members: Dennis Lentz, Christine Bennett, Ed Cieleuszko, Melissa Horner, and Casey Snyder - Alternate.

**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. Cieleuszko, to approve the minutes of July 10, 2018, as amended.

**VOTE**

**5-0**

**Chair concurs**

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

**A. 61 Julie Lane (Map 36/Lot 9-5); PB18-10; Request to amend a previously-approved site plan to construct a 36'X36' addition.**

**Received: July 3, 2018**

**1<sup>st</sup> Heard: July 17, 2018**

**Public Hearing: N/A**

**2<sup>nd</sup> Hearing: N/A**

**Site Walk: N/A**

**Approval: July 17, 2018**

Eric Weinrieb, (Representative) P.E. of Altus Engineering, LLC and Charlie Bourdages (Applicant), Site Structures Landscaping Corporation were present for this application.

Mr. Lentz said that, regarding the acreage, we have 6.9 acres listed on the application and the drawing is 9.74 acres, asking which one was correct.

It was determined that 6.9 acres was correct. It was also determined that the district – C/I – was missing from the application.

Mr. Weinrieb said that it is correct in the notes but not on the drawing; that he would explain that later. He added that, at the time of the lot purchase and seeking approval, the lot was 9 acres; that shortly after approval, Mr. Bourdages sold off a chunk of the land, pointing out on the site plan the portion that was sold and why there's a discrepancy on the site plan. He explained that, in 2005, we sought approval for an 8,000 square-foot structure, highlighted in blue; that in 2006, due to economic reasons, Mr. Bourdages built a smaller building with PB approval; that, at the same time, he also built the infrastructure and the lay-down area, septic system, and so forth. He added that, through the approval process, we went for a Tier I wetland approval to cross the wetland; that we also did a drainage study that was reviewed by the DEP as part of the Tier I Permit approval process, and it was also approved by the Town. He said that that drainage study showed that we were decreasing the peak rate of run-off at the 2-, 10-, 25-, and 50-year storm event and, in that, that was assuming that that building would be built out at 8,000 square feet, which it wasn't, and that as a conservative measure, instead of assuming that the gravel would stay gravel for the lay-down area, we designed that with a curb number of 98, which is essentially pavement. He said that, now in 2018, Mr. Bourdages wants to do a modest addition to the site of 1,300 square feet, which is about double of what he already has; that parking, lay-down access areas, everything else will stay the same; that he will just build an addition to the front of the existing building. He added that the septic system was designed and constructed for 18 persons for fulltime occupancy, adding that if the applicant has 18 people there, he's in big trouble; that he's a landscaper so he would probably have one to two people.

Mr. Bourdages said yes, adding sometimes three.

Mr. Weinrieb said that, generally, the applicant has people there setting up a project, doing repairs to the equipment, etc.; that this is a place where he has his shop, not a place where he does business; that he does business all over the Seacoast. He added that he thinks we've met the design and spirit of the modification; that he got a memo on the application from the Town Planner today and he has addressed some of her comments. He handed out copies of his response and discussed with the PB. **Addressing** control of erosion and sediment, he said that site work for this would be very minor, the work would be within the gravel area, not a full basement but a slab on-grade and only a slight potential for migration of sediment; that, if requested by the PB, we have no issue with putting a silt soxx around the perimeter of the site work. **Addressing** the suggestion to reduce the size of the proposed garage to be smaller than the existing use, he said that he thought that that was intended with this being an accessory use and that is not the intent; that this is an addition to the principal use of the property; that, originally, he wanted an 8,000 square-foot building, decided to build smaller, and he just wants to do a two-bay garage addition. **Addressing** indicating setbacks from proposed structure and wetlands, as well as current parking, he said that he highlighted in red on a copy of the plan those setbacks and highlighted in yellow the current/existing parking. **Addressing** how the current stormwater system will handle this addition per the DEP's current standards, he

said that this proposal is for a 1,300 square-foot addition, the impervious is less than previously accounted for in the drainage computation that was submitted to the DEP with the original application process; that this system was designed to handle this flow and the surface water treatment uses best management practices of natural vegetated buffers.

Mr. Lentz asked Mr. Weinrieb to explain Note #2 (plan) that says, "location of existing building and site features is based on a site visit on 4/25/2018 and is not an as-built."

Mr. Weinrieb said that we didn't do an 'existing conditions' survey, we took our design drawings from the original approval and checked around the site, did some swing ties to the boundary and visually saw that there's a storage bin over 'here', etc., but we didn't physically survey every inch of it.

Mr. Ciesleszko asked, as an accessory structure, if this is part of your existing building proposed to be added to it and will it be one structure when you are done.

Mr. Weinrieb said yes.

Mr. Ciesleszko asked what would be in the garage.

Mr. Bourdages said that right now we have a two-story building, which is on the right-hand side of the top left picture, with an office at the top and the garage on the bottom; that our garage is not equal to the task of our repairs, sometimes.

Mr. Weinrieb said that, inside, it's more like a residential garage, existing; pointing to the building marked in yellow on the plan and the proposed addition going out from the right.

Mr. Ciesleszko said that he assumed there would be maintenance on the mowers, etc. and asked if there would be any oil storage, any set-ups for gases, etc.

Mr. Bourdages said that, when we change the oil, we store it in a 55-gallon drum and we transport it, he thinks, to Thompson's; that the mechanic brings it to somebody who burns it in a waste oil furnace; that there is no gasoline and no other oil collection other than the drum.

Mr. Ciesleszko said that they are proposing a pad and asked if there was any drainage in it, such as floor drains.

Mr. Weinrieb said no.

Ms. Bennett asked how tall the building is going to be.

Mr. Weinrieb said it would be less than the 35 feet; that he isn't sure but thinks 25 to 28 feet.

Ms. Bennett asked the applicant to add the height to the plan so that we know it conforms to our ordinance. She discussed a memo from the Fire Chief; that in it he draws our attention to the fact that this previous approval (8,500 sq. ft. building) hasn't been built, asking when the 1,200-foot structure was built.

Mr. Weinrieb said that we got the approval in 2005 for the 8,500 square-foot building; that in August 2006 we went back and amended the approval for the 1,300 square-foot building and that was the approval in place when we built it. He added that all the design basis is on the larger building but the permit he built off of is the small building; that in order for him to, just like making this addition, make an 8,000-square-foot building, we would be back here again.

Ms. Bennett said that the Fire Chief felt that there was an active approval for an 8,500-square-foot building when, in fact, our ordinance says that your approval expires if you haven't started the work or substantially completed the work within 3 years; that we can assure the Fire Chief that that 8,500-square-foot building is not active.

Mr. Lentz said that the original use for the building was to store equipment.

Mr. Weinrieb said that it was the same thing but he would just have more room to keep his equipment weather-tight.

Mr. Lentz said that this application was to repair; that it's a garage.

Mr. Weinrieb agreed that it was a garage; that when he's not repairing them he's sure he's going to keep equipment in there.

Mr. Lentz said that he thought we were essentially changing the use from what we originally did.

Mr. Weinrieb said that the 8,000 was for storing equipment in there, which is a garage, and what was constructed was a garage with the same thing, just smaller; that we are not adding anything.

Mr. Lentz asked if there was no change in usage.

Mr. Weinrieb said that was correct. He added that all we're doing now is actually keeping two bays that he has now, they're just going to be bigger and creating more space.

Mr. Cielezsko said that he doesn't believe he has the amended approval for the smaller structure, asking if that was available.

The Town Planner said that she could look into that; that she had the original 2005 file with her.

Mr. Lentz said that a question for the PB was whether this was a substantial change.

Mr. Cieleszko said he did not think so, if we are following the amended plan; that that question would be answered better if he could see the amended plan.

The PB members agreed with Mr. Cieleszko.

Mr. Cieleszko said that he would not want to move forward without that amended PB approval; that if it isn't there or something is amiss then it is a substantial change. He added that, first of all, their PB approval is null and void; that they wouldn't lose their ability to have their business, but the change they are asking for now is not a small unsubstantial change to a non-existing permit, if we don't have that amended approval.

Mr. Weinrieb said that he didn't have that approval but he does have a copy of the PB Notice.

It was determined that it was the PB agenda but the case number was on that – PB06-21.

Mr. Cieleszko said that the finished thought is that you can't ask for even a non-substantial change to a null and void proposal; that they have to start from scratch.

Ms. Bennett agreed, if we are working off the original 2005 approval.

Mr. Cieleszko suggested the PB table this application until we get that (2006 approval) or the applicant re-apply for new PB approval.

The Town Planner said that she has the files she could find on that Map and Lot; that she could do some more searching to see if it's misfiled.

Ms. Bennett said that the original decision was Map 37, not 36.

Mr. Weinrieb said that he understood the PB's dilemma but clearly, as we look at this, when he applied he got a building permit; that when he got that building permit he's sure it was checked here to make sure he was not in violation of his site plan approval; that he got a Certificate of Occupancy and, in order to get that, he went through a process to make sure he wasn't in violation of the site plan; that clearly to him, everything has been followed straight along; that we obviously went back through that process and he got his building permit, he got his Certificate of Occupancy, he has been working out of the place since (approval fall 2006) the spring of 2007; that he's been working there, paying taxes there, for eleven years. He reiterated his understanding of the PB's dilemma but, clearly, there's been no Notice of Violation, or anything; that he feels like what we are doing is completely above-board and falls under the criteria to amend that plan.

Mr. Lentz said that he understood; that we are not questioning the applicant's integrity or what he is trying to do; that we are dealing with ordinances and what we have in front of us is something from 2005, and that's it; that if you haven't completed it within a couple of years, you start over; that he thinks that's Mr. Cieleszko's question.

Mr. Weinrieb asked if the PB didn't have the date on the tax card; that he believes that was in the packet. He added that, certainly, the Town would have copies of their own records.

Ms. Horner said that she agreed with the applicant; that she would be happy to hear why, but she doesn't understand why, we would need the amended plan because it is an addition to an existing building; so, even if we didn't have the approval and he said that this building has been on his property for 50 years, she feels like we are going through the same process in that we are just approving an addition; that they are not asking for a change of use. She added that she gets the null-and-void-thing for 2005 but the building is there and has been there since at least 2015.

Mr. Weinrieb said that no one would have let him build it if he didn't have an approved site plan.

Ms. Horner agreed; that she is only one member but she agrees with what the applicant is saying in that it's an amendment to an existing building; that he couldn't have gotten a Certificate of Occupancy from the CEO without going through all that; that maybe it was misfiled under the wrong map number when he sold off the lot. She added that the applicant got the original approval in 2005 and decided not to move forward with that; so, then they went back to amend it in 2006, then commenced the work within the time period required; that, now, they are asking to put an addition on that approval.

Several PB members said that they were looking for the amendment.

Ms. Horner said that she understood but she just doesn't think it's fair to the applicant to table the application because we don't have our file, asking what happens if we can't find it. She added that their building got built and the CEO had to sign off on it; that these things had to happen to commence the building of the structure.

After further discussion, the Town Planner suggested she look to see if anything was filed under Map #37 so that it didn't hold the applicant up.

The PB took a short recess while the Town Planner looked for the missing information.

The Town Planner found the missing information under Map 37/Lot 9-5.

Mr. Cieleuszko said to Ms. Horner that his reason for bringing this up is that things go on in Town through the chaos of Town government, which can go on for years and years, and can be illegal, unplanned; that many different things go on and, if you take it at face value that it's been there forever, that doesn't bode well for further decisions. He added that we've got to be able to back everything up we do.

Ms. Horner said that she understood that but she also thought it was important to bring up the fact that we might have to operate on the fact that we don't have it.

Mr. Lentz asked the PB for the next step

Ms. Bennett suggested we all get a copy of the actual 2006 approval and site plan. She added that she would offer up that we can vote on whether or not to approve, conditioned on the correct site plan being modified to show the proposed changes to it because we have been discussing a site plan that is no longer; that 'this' is the actual, active site plan that was approved. She added that it would be great to see what was approved in 2006 and with the applicant's proposal here in 2018.

Mr. Lentz asked if that would be a condition of approval.

Ms. Bennett agreed, suggesting that we should make that a condition of approval that this be included; that we would be well-served to have a chain, in the file, of the property history, to-date, of what we're actually approving – the actual site plan we are operating off of.

The PB agreed.

Ms. Bennett moved, second by Mr. Cieleuszko, that the Planning Board accept PB18-10, an application to amend PB06-21 to add a 1,300-square-foot garage structure to the existing 1,200-square-foot garage, subject to the following conditions:

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. Copies of approved permits from Maine DEP, Army Corps of Engineers, if applicable, and State shall be provided to the CEO before construction on this project may begin.
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 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.
3. The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.
4. The applicant will modify and provide an accurate, current site plan for Planning Board records.
5. Applicant will provide the correct height of proposed structure
6. The applicant will correct the Map and Lot number.
7. The applicant will provide the correct property acreage.

**VOTE**

**5-0**

**Chair votes in the affirmative**

Mr. Lentz 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. 495 Harold L Dow Highway (Map 53/Lot 8); B18-9; Request to amend a previously-approved site plan to add a medicinal caregiver storefront, greenhouse, and fence.**

**Received: July 3, 2018**

**1<sup>st</sup> Heard: July 17, 2018**

**Public Hearing: \_\_\_\_\_**

**2<sup>nd</sup> Hearing: \_\_\_\_\_**

**Site Walk: \_\_\_\_\_**

**Approval: \_\_\_\_\_**

Hughes and Kristin Pope, applicants, were present for this application.

Mr. Pope said that they were here tonight to discuss an expansion of an existing approved use at 495 Harold L Dow Highway. He added that we have been successful since we were last here and we are now seeking permission to establish two things; that one is to demolish the middle building and construct a new modular structure, which will not exceed the non-conforming lot structure. He said that there is very little space accessible to public marijuana medical cardholders due to the restricted parking spaces we have available to the public; that there's one handicap parking spot and the handicap-accessible entryway into the building; that the proposed space – 18'X24' – most of that will be countertop space, with a few chairs. He explained that it's really not a place where people are going to come to hang out; that people are going to come seeking education about the products that we have, why we have them, how they help them; that there will likely be a time limit for how long people can spend time in there, just to keep the day moving along. He said that the security we have is quite extensive, much more than anything he thought we would have; that we will have ID tags that we hope will have a fingerprint component to them; that if you tap it three times, it alerts the local authority, if you tap it twice it can lock down doors in the event of an emergency. He said that the hours of operation are still up in the air; that we are thinking of 9AM to 5PM or 9AM to 8PM for those working later hours; that the rest of the building is likely going to be used for office space and a think-tank zone to discuss ideas and products, for monthly meetings with employees. He added that he had had in mind, initially, a greenhouse structure for proposed retail space, like Wentworth Greenhouses; that he thinks it's neat that people can come in and get a sense of what they're buying and a sense of how the people selling it to them are interacting, day-to-day, in and around the product that they are purchasing; that the advise from people on our team is that it might not be secure enough and, in the event that that doesn't happen, we would probably buy some sort of



nice-looking modular structure. He clarified that a big reason we are here tonight is that he is beginning to feel uncomfortable meeting people in public; that he doesn't feel it's safe and he wants people to feel safe; that he wants to get rid of the taboo of cannabis, and what it is, and he thinks that's done in a safe, well-lit, open, clean, clutter-free space for people to come and get their needs met. He said that it's becoming apparent that we need to do something about it; that we've been getting lots of phone calls from people that we don't know and it's a game-changer. He addressed questions from the Town Planner about the application. He said that the first was about propane pads and concrete utility pads; that they are indicated in red, as is everything on the site plan that is proposed. He added that the squares behind the building next to the Flower Company Properties property are for HVAC utility pads – air conditioners, condensing units; that the land is pitched away from the building. He said that, although it isn't on the plan right now, there is another concrete utility pad in the middle of that lot, which is for a transformer that CMP plans to install; that CMP has come up with a plan, that it's gone to engineering, and it will take a few more months. He said that he is bleeding financially keeping this going right now because we can't get adequate power to the building; that it only made sense that we would utilize the sun and also increase our facility without increasing the lease. He added that the owner of the property has approved that and that is in the PB packets. He said that we have a light-deprivation system; that a black cloth would roll over the top of the greenhouse every day to tell the plants when to go to sleep; that we will also reduce any glare from any equipment we would be running through there.

Mr. Lentz, addressing the recycle area, asked what the applicant would be recycling there.

Mr. Pope said that we will recycle cardboard and plastic from some of the vertical control products we get and lighting, gallon jugs from Cumberland Farms. He said that it would be removed weekly and there would be a lid on it; that it would be a small enclosure that he could put in his truck to take to the Transfer Station. He added that we would also like to have compost piles; that we are currently out-sourcing our compost from a company in Vermont. He said that he is working with MOFGA (Maine Organic Farmers and Gardeners Association) to find out what their requirements are to approve compost that we create in-house; that we would eventually like to be collecting food scraps from farm-to-table restaurants; that there is one in Exeter, New Hampshire that's agreed to help us. He said that the compost piles and the proposed soil amendment storage containers will look identical to York Woods and, also, the Flower Company Properties has two greenhouses next door to him and a number of containers; that those are simply hoop-house structures over the top, with 3'X2'X2'-deep concrete blocks and we would like to have three blocks up and, then, a hoop structure, which will all be obscured by an 8' privacy fence, chain-link with fancy, black poly-leaf going through it. He added that they would like to hire Flower Company Properties to do some planting for us in front of that fence just so that the piles are obscured by the road; that we want to make the property look really nice.

Mr. Lentz asked if the compost was something the applicant is creating or something they are bringing in to use.

Mr. Pope said that we are currently bringing it in but we would like to create it, eventually; that we cannot create it until we have a site walk from our MOFGA recertification, which should be next month. He added that there was a question as to how we will maintain the compost piles and we are still learning about that; that, off-the-cuff, we will still be using our 1 ¼-cubic-yard soil mixer to mix the pile after it's heated to the appropriate temperature a number of times; that he's hoping they have a bobcat, at that point, so we don't have to use wheel barrels.

Mr. Lentz said thought the key was that it would be screened.

Mr. Pope said that it would be screened.

Mr. Lentz said that the chain-link fence seemed to be extremely important because everything must be enclosed.

Mr. Pope agreed, saying that we plan to have a 16-foot gate that opens up and we plan on having a Knox Box there so, in the event of an emergency, the Police and Fire Departments can get in and do what they need to do. He added that we plan to have transponders on all our cars so that employees have access through that gate and they'll have a free 'get-out'.

Mr. Lentz asked if that was the only access.

Mr. Pope said yes; that that will be monitored 24/7 for security purposes; that the cameras we will be using have a sort of butterfly effect to them that have heaters inside the glass and infrared at night. He added that he felt very confident with the security; that we have motion detectors, as well. Discussing the 8-foot limit for the fencing, he said that he didn't think there would be an issue with having arborvitaes higher than that in front of the fence; that they would not do that if there was. He said that, with §33-189 (no visibility from exterior of building, his understanding was that there would be no cannabis leaves hanging out of windows, no debris from our day-to-day left outside.

Mr. Lentz said that there would be no signs, pictures, anything.

Mr. Pope said that this would be a locked facility that would have no visibility. He clarified that you will not be able to see anything from the exterior, including the storefront. He said that there is a building in front of our proposed storefront that is not part of our lease and, currently, he doesn't believe the owner is renting it; that he asked for it to be removed and the owner sounds very eager and open to doing so.

Mr. Lentz said that included in the packet was a lease signed in 2017, asking if that covered the new expansion, is everything still covered in that lease that the applicant is planning to do or is there more leasing to do.

Mr. Pope said that that is yet to be determined; that, if so, he imagined the medicinal storefront would be a separate lease but we have not discussed what that will look like, yet. Discussing the greenhouse, he said that that is a hot topic for him because he is struggling to make things work without having power; that the engineering was supposed to be done two weeks ago; that the structure was intending to be 60 feet wide and, now, it's 48 feet because of snow loads; that that really reduces the amount of space inside, however, he did try to provide some information on that that was available to him.

Mr. Lentz said that this greenhouse is a new structure.

Mr. Pope confirmed that it is; that it looks very much like the one in the black-and-white picture.

Ms. Bennett asked if that was the structure the applicant was describing with the cloth cover and not these hoop structures.

Mr. Pope said yes; that Ms. Nooney has a permit for those structures (hoop) but they are not there; that there are plants in that space where she intends them to be; that she said she would reach out to the Town Planner to talk about that. He added that the parking lot she put in is quite incredible; that we are not required to dig anything to put our concrete pads down for the greenhouse; that the greenhouses are intended to have a radiant slab so you can utilize them year-round in hopes of lowering our carbon footprint. He said that the intention of what we are doing, in the end, is to get away from growing indoors entirely to use as much of mother nature's resources as available to us. He added that we intend on creating a walkway of plywood from the existing, approved structure for going to the greenhouse in the winter.

Mr. Lentz said that, last time, we talked about ways of taking care of wastewater and odors; that that will be part of that greenhouse.

Mr. Pope said yes; that he's discovered a new technique for mitigating odor that, apparently, has been around for a long time and used internationally. He added that it's a concentrate derived from plant botanicals and not harmful to bees, birds, etc., which is put into a 60-gallon barrel, which is connected to little misters fastened to all the exhaust ports and the ridgeline vents of the greenhouse structure; that they go off intermittently when need be. He explained that that captures the particulate in the air and it is supposed to work very well; that he has done some research on it and towns that are serious about odor control have been applauding people using this product.

Mr. Lentz asked if the water the applicant uses will be recycled.

Mr. Pope said eventually we will have a gray water system; that right now we are collecting the water, using what we can, and the rest of it is going into the septic tank, which is essentially a refuse compost heap, with no nitrate and salt-based products in there; so he feels confident that we aren't doing too much to the water table, not creating more issues there. He added that we also have a well that the owner had put in that is

labeled as new; that it should say existing well. He said that when we do our renovations we will be following the Town ordinances with the sediment and erosion control, despite the fact that we are not digging; that we will have silt soxx and any other applicable technique to keep that all contained. Discussing parking, he said that the space between our current occupied building and the proposed greenhouse is set up as such so that we can park cars diagonally and we have more than enough parking spaces for anybody working in the actual cultivation space; that any additional employees that he hopes to take on this next year will be able to park there, as well. He added that there is additional space (2) just behind the storefront between the existing grow facility and proposed storefront; that he really doesn't anticipate having more than two people in there at once, as it is a pretty small space and there won't be many people accessing the storefront at once. He said that there would be one bathroom accessible to the public. He added that we plan to have potentially 8 – 10 employees between two buildings at any given time. He reiterated that the 2,360-square-foot building owned by Flower Companies will be demolished. He added that we also received a Board of Appeals variance that allows us to go right up to that building. He said that the proposed medicinal storefront would be the same size and not expanding off that scale at all; that he doesn't think it's any different than a restaurant asking to expand a seating area without needing a review from ground zero; that we've had previous approval and hoping these are all minor changes. He added that we've been out creating quite a few jobs with this business; that we've met a few people locally that are really eager to get out of what they're doing and do something new; that he would like to think we are becoming a company that people would be proud to work for and have opportunities for them to grow, and for us. He said that he received a letter this morning through the Town Planner from the Fire Marshall; that it was a bit surprising that it was the day of our meeting although he doesn't think it was an unreasonable request, at all; that he thought it worth mentioning that the Fire Marshall's proposal seems to be based on things that haven't been adopted by the State, yet, and they would have to be adopted by the Town ordinance to be held accountable to those things right now; so, as far as he knows, we're operating off of regulations from several years back – the NFPA1-2006 Edition and NFPA101-2009 Edition. He added that he doesn't know who the Fire Marshall is but would like to work with him because he sees himself being in Town quite a few more years and he would like to expand his business.

Mr. Lentz went back to the existing 3,000-square-foot hoop structure, asking if they were in use now for Ms. Nooney's business or is that something the applicant is going to use.

Mr. Pope said no; that she has been disassembling it; that he's seen bits and pieces lying around; that that has nothing to do with him.

Mr. Cieleuszko asked for clarification that the hoop structures that are behind the proposed building on the plan are not there.

Mr. Pope said that they are not there.

Mr. Cieleuszko asked if the 'relocate existing hoop structure' was there.

Mr. Pope said that that is moved as close as she could get it to the road, he believes.

Mr. Cieleszko said that that is a hoop structure that currently exists.

Mr. Pope said that he has not seen it but he knows she has some hoop structures on her property that are up on the hill; that one of the contingencies upon her allowing us to occupy that middle building is to physically remove the stuff from that building and put it in this hoop structure that she has a permit for, which is the one near the road.

Mr. Cieleszko said that that doesn't exist at the moment.

Mr. Pope agreed.

Mr. Cieleszko said that the existing warehouse/business office is going to be torn down but is currently a running business not associated with Mr. Pope, the one that's coming down soon.

Mr. Pope said that that will probably come down in the winter but he is not aware of when that will be; that the one he wants to take down is in the middle. He added that the existing warehouse/business office currently exists but he doesn't know if there is a business in there.

Mr. Cieleszko said that there are no dimensions on any drawing he has seen in his packet.

Mr. Pope said that he thought it showed the setbacks.

Mr. Cieleszko said that there should be dimensions all over the plan.

Ms. Horner said that we would need that with the new buildings/plan, anyway.

Mr. Cieleszko said that that might take care of that but he has problems with dimensions on what the applicant has presented. Regarding clarity with signage, he said that there's not going to be signs of your product but is there any sign, at all, any business sign.

Mr. Pope said that he hoped so.

Ms. Pope said that we were approved for a sign.

Ms. Horner said that there is an existing sign shown on their plan.

Mr. Cieleszko asked if the gate would be open during the day or would you need 24/7 access.

Mr. Pope said that the gate to our grow facility will always be closed; that the regulations we follow for the Medical Marijuana Act do not allow anyone in there; that the gate closest to Route 236 will only be open during business hours and locked every night.

Mr. Cieleszko said that the grow facility is fenced separately.

Mr. Pope said yes.

Mr. Cieleszko asked about the 'employees only' portion of the new proposed building, what that would be used for.

Mr. Pope said that there will be no public access; that it will just be for employees to meet and discuss the month – like a think tank room; that he was asked to specifically delineate that due to parking spaces.

Mr. Cieleszko asked about access to the propane pad and concrete utility, if that is in the grow area.

Mr. Pope said yes.

Mr. Cieleszko asked if the applicant would need refills or was this a small tank that they would take care of.

Mr. Pope said that he's not sure if they are going to use electric heat or the existing propane; that in the event they do choose to use propane, we do have access for a big truck to come.

Mr. Cieleszko said that Fire Chief Muzeroll never said anything about access for fire apparatus.

Mr. Pope said that we took that into consideration, as well; that they can get a fire engine around there.

Mr. Cieleszko said that he is not seeing this as a small change with the new structures; actually, the greenhouse is the killer for him. He added that he would like to have some consensus on whether this is going to be treated as just a small change to an existing plan; that he didn't want to go to far without knowing what we're heading towards.

Mr. Lentz asked to hold off on that until the rest of the PB members had asked questions.

Ms. Bennett said that most of her questions were answered during the discussion; that she echoed Mr. Cieleszko's concern about dimensions and setbacks, distances between buildings, and setbacks on the site, itself; to bring what the applicant has done with this sketch up to a real site plan. She added that the applicant mentioned the memo from the Fire Chief and recognized he hadn't had time to reflect on it yet. She said that the Fire Chief did come in and sent a memo to us back in May, discussing that this is a moving target, changing at the State level and local level; that he brought to us the NFPA guidance and, specifically, those rules that are being put in place in Colorado; that he really schooled us on his concerns and thoughts about it and also made recommendations to us. She added that he made us aware that he could only recommend Chapters 38 and

39 but he can require Chapter 101. She asked the applicant if he would be amenable to working with the Fire Chief on those sections of Chapters 38 and 39 that seem applicable to the applicant's operation, recognizing that it's a big code and a lot of moving parts in it, because, just so the applicant knows that we, as a Board, sort of gave a nod and consensus to the Fire Chief that we would follow his lead on any recommendations. She said that we haven't changed the ordinance but, in the spirit of working together in community, it would be great if the applicant might consider that.

Mr. Pope said that he would certainly consider that.

Ms. Bennett said that there were some pieces in there that our code has not caught up with, just in perusing it, that were really just commonsense precautions.

Mr. Pope said that we don't want our building to burn down and want to protect our investment.

Ms. Bennett agreed; that it sounds like the applicant has an environmental conscience about his approach to this but we really do want to preserve the environment of the surrounding areas, as well.

Mr. Snyder said that most of his questions have been answered during the discussions.

Ms. Horner gave the applicant a copy of a site plan as reference to what the PB was looking for, listing some things he could do to update his drawing to a site plan; the CMP utility pad should be added; setbacks should be added to all the applicant's new everything, like proper dimensional standards from the compost pile, a line drawn back to the property line that says 20 feet – on the site plan she circled what our ordinance requires, which spells it all out for us at a glance to show you are meeting the requirements; building dimensions; a landscaping plan – locating plantings on the plan; an erosion and control plan specifying materials added as a footnote; add the odor control machine to the greenhouse plan with a footnote; update 'new' well to 'existing' well; add a footnote for the number of parking spaces indicated and showing it meets the requirements; update the existing and proposed structures as they currently actually are on the property; that she didn't know where the bathroom would be and that needs to be shown.

Mr. Pope said that we haven't determined that, yet; that we know it won't exceed the footprint.

Ms. Horner said that that would probably be another meeting, to build the building, unless the applicant presents that...to her, with 'this' building, she wouldn't give him permission to build it because there's no plan.

Mr. Pope said that what gets him about it is that it looks terrible; that it's just a piece of junk and we're here saying that we want to put a modular building there, not exceed the footprint, not exceed the height, and conform to the Town ordinances.

Ms. Horner said that the applicant just needs to show us that; that we aren't saying you can't do that or shouldn't do that or don't appreciate that you're going to do that but she doesn't feel like she's being shown that.

Mr. Lentz said that no matter what money you put into that, you aren't going to lose your money because, eventually as you keep coming back here, and you want to grow and change things, we're going to continually ask for all the dimensions, where are those things, which are the applicant's buildings and which are Ms. Nooney's, which ones are you going to destroy and which ones are you going to build; that it just makes it so much easier for us, and the applicant eventually, and it becomes a permanent part of the record; that the applicant saw what happened with the last application and having to find a file that might have been lost; that this is so critical and he agrees with everything that Ms. Horner said.

Ms. Horner said that the applicant needs to show the setbacks for the fence.

Mr. Lentz added that the setback variance the applicant received from the BOA needed to be on the plan; that the new building needs to show that it is within that variance allowance.

Mr. Pope showed the PB that that was on the plan.

Mr. Cielezsko said to add the lot coverage % to the plan, as well. It was clarified that the allowable coverage was on the drawing but the PB needed the specific percentage of lot coverage, not what was allowed.

Mr. Lentz said that he has a real hiccup with 'storefront', asking if the applicant considered this a retail marijuana store.

Mr. Pope said no; that retail is not available to people, yet, and insinuates that people do not need a medical marijuana card; that a medicinal storefront means you need a prescription from a doctor.

Mr. Lentz asked if they were buying anything when they came in to that storefront.

Mr. Pope said that, if they have a medicinal card, then they may purchase product; that they must have the medicinal card to enter the building.

Ms. Horner asked the Town Planner if that is what our ordinance calls it, wondering where that medicinal caregiver storefront use come from.

The Town Planner said that our current ordinance (§45-290) allows nonprofit medical marijuana dispensaries in the C/I District with Site Plan Review; that §33-189 allowed a change in November 2016 to the ordinance to allow the use of primary caregivers to follow the provisions of medical marijuana dispensaries, "The provisions for non-profit medical marijuana dispensaries shall apply to both dispensaries and registered primary



caregivers.” She added that we don’t have a ‘medicinal storefront’ use but then we do have “retail” use, which is allowed in the C/I District – “Retail stores, local, others” with Site Plan Review; that that is how we got to ‘non-profit retail store’ and she thinks on the application it was put on as ‘medicinal storefront’. She said that the restriction would be that only patients of the primary caregiver would be allowed in an area like that; that the legislature has recently included primary caregivers in the municipal opt-in program per a change to the State law; that that does not become effective until 90 days after the legislature adjourns.

Ms. Horner said that she doesn’t understand why it isn’t a medical caregiver dispensary; that that’s what it is.

Mr. Pope said that the difference between a caregiver and a dispensary is that a dispensary is not limited by their plant count and patient count; that a caregiver, like us, is limited by their plant count and we are not allowed to service more than 10 patients.

Ms. Horner said that, legally, the applicants need to call themselves medicinal caregiver storefront versus caregiver dispensary.

Ms. Pope said that that was correct.

Mr. Lentz said that there are only 8 allowed dispensaries.

Ms. Pope said that that is a whole different license.

Mr. Lentz said that he was still struggling with ‘storefront’; that the applicant is going to demolish part of a building and put a storefront up so that people can come in to get an idea of what you do and what you sell.

Mr. Pope said that they can also purchase it; that it’s a place for education and purchase, if they have a card.

Mr. Lentz asked what guarantees us that the people going in there that they’ll have a card.

Mr. Pope said that we have a security access point in front where their ID will be checked before they can come in. He added that we would risk our license and we’ve worked hard to maintain it over the years; that we wouldn’t jeopardize it by allowing a minor or someone without a card.

Mr. Lentz said that it isn’t something that you’d allow, it’s what will happen.

Mr. Pope said that it cannot happen; that everybody’s card gets scanned and goes into a system.

Ms. Horner said that it feels a little out of our purview; that if a bar were to open in Town she doesn't know how we would get them to guarantee that someone who is 20 with a fake ID couldn't get in.

Mr. Lentz said that his point was the storefront; that if they didn't have a storefront, he wouldn't worry; that there's a chain-link fence, everything's locked in but, if you're going to allow people to come in...

Mr. Pope said that 'storefront' is misleading because it's not really what it is. He introduced Justice Ryan, part of our team.

Mr. Ryan made a point of clarification; that this storefront is misleading; that it's not like a Circle K but essentially an appointment room, with products on display and an opportunity to counsel patients. He added that it's not a "storefront"; that this is by appointment only, with calls first for somebody to come in; that it's not people walking in off the street and wandering in.

Mr. Lentz asked if they could call it a counsel room, or something, and get away from store.

Mr. Ryan said that 'retail storefront' is the language in the new law; that he doesn't know what it will ultimately be called.

Mr. Lentz said that part of the applicant's packet was the results of a Special Town Meeting held July 7, 2010 on "Controlled Drug (Medical Marijuana); that when he got to Item #3, and he read: "Because of the amount of vehicle traffic that will develop from all of York County is difficult to estimate, a dispensary planning to site in Eliot should include a product delivery system for patients and caregivers. This system should consider using a varying set of unmarked cars..."; that what that is saying to him is that people shouldn't be going there, we should be delivering it; that he thinks we had that conversation when we had the first go-around. He went back to Mr. Cieleuszko's question regarding consensus.

Mr. Cieleuszko said that he recommends that we have some consensus on whether this is a minor change to an existing PB-approved plan or a new proposal with a major change.

Mr. Pope said that the greenhouse is a natural growth of an already-approved agricultural business; that it's not changing our business but just giving us an opportunity to get it going; that it's essentially a hoop house and it's a locked and closed facility that has a fence that you won't be able to see anything in it; that it's not a house, it's just a greenhouse and it's the same thing that we're already doing; that the difference is that it has a clear roof instead of a brown roof.

Mr. Cieleuszko said that his reservations are not greatly concerned with the change in business, if any; that his concerns are with the change in the building they are proposing and a whole new structure; that it's a lot of change in the land use and that's what

concerns him. He added that this is a lot more lot coverage, structures near borders, new structures and a big rearrangement; that it requires a site walk, a full plan review.

Mr. Lentz asked if Mr. Cieleuszko was asking if we all believe that this is a major change.

Mr. Cieleuszko said yes.

Mr. Pope said that he doesn't think that Ms. Nooney had a site walk when she moved her cut flower business from Kittery to her existing property and repurposed her greenhouses; that she's had two greenhouses that are the exact same size, she's got compost bins, and everything we're proposing and he doesn't believe she was held to that standard. He added that he is just letting the PB know that his neighbor does the same thing, just grows a different plant.

Mr. Lentz said that, as far as he is concerned, if we're demolishing something and reconstructing something and we're moving things around, there is a possibility we're changing the use of the land.

Ms. Bennett said that she has the applicant's prior approval – amendment to the site plan; that Ms. Nooney received an amendment to the site plan prior to the applicant coming to us in 2017; that in her application she was asking to amend a previously-approved site plan, which was another previously-approved site plan; that there's this chain of approved site plans. She added that the property started out as East-West Custom Boats in 1978, then turned into East-West Lumber and did some on-site custom building; that then it was Echo Rowing, so they built some boats and had a showroom. Discussing PB17-01, which is when Ms. Nooney purchased the subject property, she said that this was with a previously-approved site plan to allow additional leased business office and warehouse space and to relocate existing greenhouse structures; that when the applicant came to us and amended that, it was pretty consistent when it was business office and warehouse. She said that she thinks we are having to deliberate on the storefront and what that is; whether that is a minor change from warehouse/business office to being a more substantial change to the lease of the property. She added that there were three things that came to mind that fit for this – 'clinics', 'hospital', and 'professional office' are allowed in the C/I Zone; that looking at what the applicant is doing it could probably fit into any of those things but you've described the fact that people will only be coming by appointment into this facility and it will be a discrete number of people and will not be the public coming in; so, that kicks out 'retail' from this; that it starts to sound like a 'business office' in some ways. She said that she thinks she would feel comfortable with saying that that is a slight modification of the approved business office that we approved in 2017, but she would open that up to discussion with the others.

Ms. Horner agreed with what Ms. Bennett was saying; that a part of her feels it would be worth it to have a public hearing on this for the applicant's benefit, too; that it would be worth hearing from people before it's too late, so-to-speak, and to the applicant's benefit to get out in front of any issue that might come up. She added that she doesn't have any

problem with anything except the change of use and has always felt that any change of use warrants a public hearing.

Mr. Snyder agreed that there was a lot of change and warrants more detail.

Mr. Lentz said that, if there is consensus that this is a major change, he would recommend the next step be a public hearing.

Mr. Cieleuszko said that he thinks we have four separate reasons for why we think it's not a minor change; that that does not stand well in a deal. He added that we should have some consensus on one aspect; that if we want to pursue this as a full thing, we should have a majority of the PB agreeing that it's not a minor change for a reason, or for more than one reason.

Mr. Lentz said that he heard four people talk about the amount of change.

Mr. Cieleuszko said that he can agree with Ms. Horner about the change in use; that he was more concerned with the physical aspects of the additions to the property; but, we should stand together with an aspect that we can go to the bank with.

Mr. Lentz suggested Mr. Cieleuszko restate his reason.

Mr. Cieleuszko recommended that this be a major modification, suggesting the PB clarify whether this needed everything or only some things, such as a site walk and/or public hearing.

Ms. Bennett said that when we did Ms. Nooney's site plan modification, it was an amendment, and we did a site walk and a public hearing; that we did a public hearing for the applicant's amendment, as well.

Mr. Pope asked if we were talking about all the changes or specifically the proposed 'clinic'.

Mr. Lentz said that, for him, it's the proposed changes taking place on that drawing.

Mr. Pope asked if that included the greenhouse.

Mr. Lentz said yes; that we're tearing things down, putting things up, moving things.

Mr. Pope clarified that nothing is being torn down, there; that we are simply putting up a greenhouse.

The Town Planner clarified that this is one application; so, the PB will review the whole application during public hearing so anyone from the public can make comment on the entire application submitted.

Ms. Horner asked if we have agreed on what the use change is, yet.

It was determined they had not.

Ms. Horner said that she thought that should be the first thing they do.

Mr. Pope asked if our space isn't approved for a medical marijuana grow facility; that he was confused about change in use.

Ms. Horner said that, on the application, it says change of use from 'office space' to 'medicinal caregiver storefront' and that was her original question as to why....

Mr. Pope said that that building was not in our lease and we did not get an amendment to Ms. Nooney's site to change the use of that middle building; that that's why those words were used. He added that, as far as the greenhouses are concerned, that's the same use and nothing's changed; that the only difference is that we're asking to have it outside rather than inside.

Ms. Horner said that she still feels like she's missing something.

Mr. Pope explained that the whole concept of putting it all on one application, as far as he understood from the Town Planner, was that you would all have the ability to pick and choose what was minor and what was major; that we wanted to do all these things and that some things would be approved as minor, which would give us the ability to press onward and we could come back to the PB with a public hearing for the majors. He apologized for throwing all this on the PB in one pot.

Mr. Lentz said that that was okay.

The Town Planner clarified that what we discussed in the office were those items that she, as a Planner, would recommend to the PB be minor versus substantial; that if the applicant had come through with an application for the fence, the HVAC pads, things like that, then those things she would definitely recommend as minor amendments

Supporting their business. She add that, from a planning perspective on her desk, when she sees this and reviews it against the ordinance, she sees in §33-140, with the number of changes the applicant is proposing, that it can be reviewed as substantial because of the change of use, because of the additional structure on-site in the rear that she understands will be supporting the business that's already there and the use that's already there but, at the front, the applicant has that change of use and a reconstruction of the front structure; that there are a lot of things, here, and that is why she recommended it is a substantial change and not so much that the items were all together. She said that when you submit one plan to the PB, the whole plan goes under review because that's the purpose of the Site Plan Review; that everything has to be looked at holistically because, from our planning perspective, you want to make sure that the buildings are meeting the dimensional setbacks, that the use is something that the public hearing can go through, in many cases. She said that she just wanted to clarify that and, based on our discussion, the

applicant was thinking about doing two different sets of plans, doing one as asking for a minor amendment and something the applicant would ask for as substantial and, then, he brought forward the whole site. She added that she always thought that that is the best way to go, and she would recommend applicants do that, because everything can be reviewed at one time; that it saves the applicant a fee and gets them going on a plan that's really well-prepared to move forward on the project.

Mr. Lentz said that he believes a public hearing, right now, is the applicant's friend; that the more the applicants expose what they're doing, now, the better it is for you, also. He added that not only does it give us feedback but the applicant knows the feedback we're going to get, anyway.

Mr. Lentz said that he would ask it one more time to the PB members, asking if the PB members believe that the changes, substantially, that are being made require major modifications.

Mr. Cieleuszko said that he believes it's not a minor modification.

Ms. Bennett said that, with what the Town Planner said with the number of changes, it does raise this to the level of substantial.

Ms. Horner said yes but only for a public hearing and not the walk, etc.

Mr. Snyder said that it's just the number of changes; that he knows some are minor but all together.

The PB **agreed by consensus** that this application was a major change.

Mr. Pope asked for clarification that the whole thing is being viewed holistically as a major change.

Mr. Lentz said the current application, all the proposed changes on the current application.

Mr. Pope asked, had we come in with separate applications, would the greenhouses have been a minor change; that other than paying the additional fee, would that have been easier for the PB.

Mr. Lentz said that he didn't think so; that the applicant is coming in with a proposal, an idea, and it should be on one document; and all the detail that's required to back that up should be in that packet; that that's basically it. He added that he wouldn't recommend an application for each. He asked the PB for the next step; that we need a public hearing, which would be August 21<sup>st</sup>.

Ms. Bennett asked if the applicant could get the site plan in with all the items the PB requested to allow the PB and public to review.

Mr. Pope said yes.

Mr. Lentz asked if we got all our questions answered that were on our checklist; asking the Town Planner if we are satisfied with that.

The Town Planner said that the questions that Mr. Pope went through seemed to clarify some information; that it's just a matter of putting, in writing, like what the PB said for down the road so that it's very clear that you have approved 'this', 'this', and 'that'. She told the applicants that it only helps when they go to get their permitting to show exactly what they have approval for. She added that it's just a matter of getting those things, in writing, on plans or on the details; that she's not sure the PB wants the full Site Plan Review Checklist gone through before the meeting, as well.

The PB agreed that the Site Plan Review Checklist would be helpful.

Ms. Horner said that, if the applicants update this plan for us, she would be really careful what they do with this building because anything they present to us is what we're going to be looking at; that it can't be that they aren't sure where the bathroom's going to go. She clarified that it's almost like the applicants might want to reel it in and maybe come back when you're ready for that instead of trying to get approval for it, now, if you aren't ready for that. She asked if that made sense; that, for her, she thinks if that building were not on there, she would have had way less questions tonight; that with that building the questions would be where are the lights, where are the doors, are there windows, etc.; that removing stuff from this isn't going to hurt the you but you want to make sure that everything you put on here for the PB to review is what you're going to do. She clarified that if you put the bathroom, for example, on the back and it has to move to the front, then you have to come back to the PB to amend again.

Mr. Lentz said that Ms. Bennett had some thoughts on the Fire Chief, wanting to make sure that's taken care of.

Ms. Bennett asked, with the next step, is it possible for the applicants to conference with the Town Planner and Fire Chief to have a dialogue; that he could then memorialize it in a memo to us; that this is not required by our ordinance but pieces the Fire Chief has urged us to take into consideration for future ordinances; that it's not compulsory.

Mr. Lentz said that he asked for the type of structure being constructed with the greenhouse and the applicant answered the Knox Box style padlock on the fence; that on the storefront he wanted a fire alarm or Knox Box and we talked about that. He added that the one thing he was not sure of was "growth of products for sale in the storefront"; that he thinks the Fire Chief is looking at it as it's a retail store.

Mr. Cieleuszko said that, instead of mandating a meeting, the Fire Chief has his comments, here, and maybe during the public hearing the Fire Chief could address any other issues and we'd get a better sense having everybody together.

Mr. Lentz said that the Fire Chief is always invited. He added that he's looking at the applicants to say he thinks they have all the answers and, maybe, they need to put them down on paper so that the Fire Chief has them.

Mr. Pope asked if it was too late to consider amending this plan without the proposed clinic; that the greenhouse and the piles are the most important right now.

The Town Planner said that the applicant could amend his application; that it would not be the way it was put out on the agenda or for people to view at home; so, she thinks that would be a PB decision at that point. She asked if that has been done by the PB before.

Mr. Lentz said that it has.

Mr. Cieleuszko said that he was only going to suggest, if the applicant wants to make a change to get rid of more contentious issues, that that is a site plan that has not been approved so there is no clock started; that the applicant could just toss that and come back at the next meeting with what he really wants to do now.

The PB agreed.

Mr. Pope asked when the next meeting would be.

Ms. Bennett said August 21<sup>st</sup>.

Mr. Lentz said that, if the applicants are willing, then the PB is willing to say go ahead.

Ms. Horner said that, whatever the applicants d, the site plan needs to be updated; that she doesn't know if the applicants are asking for approval tonight but she, personally, would still want to see all the things she talked about, like landscaping, and all that would still be required at our meeting, anyway. She added that, at the next meeting, the applicants could sort of blow this out of the water with bathrooms and a door and all that stuff or they could literally pull this building, update the whole thing, and ask for an amendment to a greenhouse and fence, etc.; that, in her mind, those are the two options.

Mr. Pope said that he came here tonight hoping, at the very least, to get approval for the greenhouse. He asked if it would be appropriate to ask the PB for a vote on that.

Ms. Bennett said that she thought that would be premature right now.

Mr. Lentz agreed; that both Mr. Lentz and Ms. Bennett said that that was contingent on a new site plan; that we don't have a shortcut for any of the required things, such as dimensions and setbacks.

The PB agreed.

Mr. Lentz asked if the applicants knew what they needed to do.



Mr. Pope said that he did; that he thought that had been done with his previous visits with the Town Planner but he can see that they are not; that that's very clear.

Mr. Lentz said that, in a way of apologizing for this for the lack of understanding, knowledge, we have asked the Town Manager to put together a timeline structure that talks about the ordinances, what can be done, and where we can operate; that until that's done, every time we get a new law or they release something new it bounces around with us trying to figure out how to fit 'that' in with what was already there; that we don't have anybody, unfortunately, that's giving us leads on this and apologized. He said that he knows it's a little clumsy for the applicants and it's not fun for the PB, either.

Mr. Pope said that he appreciated Mr. Lentz saying so and he can personally speak for all of us that we understand that.

Mr. Lentz said that it's going to be worse when retail comes up.

Ms. Pope said that it's going to happen; that we want it to happen right; that we want to be the ones that are doing it the right way. She added that there are plenty of people in Town who are doing it but they're not coming before the PB to do it right; that there are people opening storefronts and finding ways around it.

Mr. Lentz said that he and the Town Planner have asked for a committee to be put together, similar to what Kittery has, and he thinks people like the applicants could be a big benefit in serving on that committee just because of their knowledge; that until they start and things happen, we're kind of stuck with trying to understand the ordinances and deal with it.

Ms. Bennett said that we're very appreciative that the applicants are following the rules.

Mr. Pope said that we are committed to that; that it's a frustrating process and so easy to do it the other way. He thanked the PB for their time.

The Town Planner asked, when the applicants make a decision, if she could have the authority to notice the public hearing if it's following through on the plan that's been submitted tonight. She asked if the PB wanted to post a public hearing at the next meeting on any item, since the applicant is coming back. She added that she just doesn't want to miss the public hearing notification for the applicant because she needs to have that posted a good amount of time in advance. She added that it would be August 7<sup>th</sup> for August 21<sup>st</sup>.

After further discussion, the PB agreed to have the Town Planner notice the public hearing.

Ms. Pope said that it was her understanding that her husband was informed, through several meetings with the Town Planner, that all of the things that Ms. Horner suggested that he put on this site map were not needed or that this site map was sufficient to give

with the application to the PB, asking how we would know that all these things should be on there if he met with the Town Planner and she said that 'this' was good. She asked if we were supposed to hire somebody to help fill this out.

Mr. Lentz said that, normally with a project like this, the applicants come in with an engineer who knows the ordinances; that there is never an application of this type that has a sketch plan that we are not going to ask for dimensions.

Ms. Pope asked if the Town Planner should have told her husband that; that isn't that why he meets with the Town Planner to discuss what he has and what he needs; that he has spent so much time into preparing for these meetings.

Mr. Lentz said that the Town Planner has acknowledged that, in writing, that the applicants have spent; that, again, it's a brand-new subject.

Ms. Pope agreed but said that having all these requirements on the site plan doesn't seem like a brand-new subject.

After further discussion, it was thought that, perhaps, there was a misunderstanding and that a previous site plan was approved without all the items on it; that the PB is working hard toward a consistent process for all PB files.

#### **ITEM 7 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS**

There was no discussion.

#### **ITEM 8 – CORRESPONDENCE**

There was no correspondence.

#### **ITEM 9 – UPDATES FROM TOWN PLANNER & PLANNING OFFICE**

##### **A. Update: Ordinance Revisions currently under review & timeline update**

##### **1) Shoreland Zoning, §44 (purpose: update standards to 2015 ME DEP Chapter 1000 Guidelines)**

The Town Planner said that the Public Hearing has been sent to the newspaper and will be posted to meet the deadlines for the August 7<sup>th</sup> meeting; that the timeline looks tight but it looks like a possibility for the November ballot. She added that she sent a clean draft to the Assistant Shoreland Zoning Coordinator with the Maine DEP on Monday, and she will be following up with him. She also added that the other sections (Items 2), 3), & 4) below) of the ordinances, as well as Shoreland Zoning, should go out to staff tomorrow.

**2) Dimensional Standards, §45-405 (purpose: clarification of table & notes per proposal)**

**3) Growth Permit Process, §29-42 (purpose: change 'application fee' to 'permit fee' only, no change proposed to fee or procedure)**

**4) Job Title (purpose: change 'Planning Assistant' to 'Planner' throughout ordinances, where applicable)**

**B. Growth Permit Survey: Final Review of Report for 2019 Calendar Year**

It was the **consensus of the PB** to accept this report. The PB was very pleased with the report. This will be provided to the Town Manager.

**C. Updates: State law – adult cannabis use(s)**

There is a 90-day window before the new laws go into effect from when they were passed by the legislature; that it was not known if the legislature is finished, yet, so the date is unsure.

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Mr. Lentz said that we got a letter back from Bernstein Shur on Shoreland Zoning.

The Town Planner said that we would just make sure that what the applicant is following is meeting the State standard; that we would let the applicant know that it's best to design to meet both standards, which is why it's a great thing that the PB is looking to move forward with this in November before we hit the springtime and build season again.

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The Town Planner said that, in §33, there are a lot of concerns that she has; that she did bring up one, which was sketch plan, and she thinks the PB saw a bit of it tonight. She added that it might occur in the future where we have ordinance of §33-140 that basically says that the Planning Assistant is to take in a plan and an application. She added that she has done a lot of work with all the applicants that come through; so, right now there's really no substance as to what that plan is supposed to entail, what detail is supposed to be on the plan; so, under an amendment, she really doesn't have much authority to tell an applicant that they can't come to the PB. She added that she could certainly said that she thinks the applicant needs more work, do this and do that, and she tries to encourage them to review. She explained that, every time an applicant comes in, she says that this is a site plan amendment and, if they are going to be amending their site plan, the PB, under §33-140, makes a determination whether, or not, that's a substantial change or a minor amendment; that, if it's a minor amendment, there is the possibility that it's approved that night; that if it's a substantial change, then they go through 'this' site plan review process; so, the applicant leaves her office knowing both options. She added that where the message is being a little lost, on all applicants, is that there's no clear delineation of

what is substantial and what is minor; that she does think there should be a way for the PB to deliberate but one thing she wanted to bring up in an administrative workshop meeting is looking at this site plan review ordinance for that, specifically, for amendments to see if there's a way to improve that process where the PB still has the authority to, obviously, go through and approve the plan but that the Planner and Planning Office has more authority or direction, discretion in the office to say 'this' is substantial or 'this' is minor. She said that she wanted to bring this forward to put on the administrative workshop meeting.

Mr. Lentz agreed; that it's a hole in the dam that we keep stumbling over.

The PB agreed that this should be on the August 7<sup>th</sup> agenda.

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Ms. Horner said that, as she would like to advocate for small business, she thought it would be helpful for small businesses in Town to not have to spend thousands of dollars on an engineering study for something that is fairly simple; that tonight she thought they had a couple of very good examples.

Mr. Lentz said that he thought it was a judgment, asking how fair can you be with an applicant or business and not get the Planner shot in the foot.

The PB agreed to put this on the August 7<sup>th</sup> agenda.


The Town Planner said that she would put something together for the minimal standards. She added that she does speak with applicants on the minimum standards and what they should be but it's a matter of not turning an applicant away because the ordinance says 'plan'.

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

The next regular Planning Board Meeting is scheduled for August 7, 2018 at 7PM.

#### **ITEM 11 – ADJOURN**

There was a motion and a second to adjourn the meeting at 9:43 PM.

  
Dennis Lentz, Chair  
Date approved: 8/7/2018

Respectfully submitted,

Ellen Lemire, Recording Secretary