

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

TYPE OF MEETING: REMOTE
PLACE: ZOOM ONLINE MEETING

DATE: Tuesday, August 4, 2020
TIME: 7:00 P.M.

PLEASE NOTE: IT IS THE POLICY OF THE PLANNING BOARD THAT THE APPLICANT OR AN AGENT OF THE APPLICANT MUST BE PRESENT IN ORDER FOR REVIEW OF THE APPLICATION TO TAKE PLACE.

- 1) ROLL CALL
- 2) PLEDGE OF ALLEGIANCE
- 3) MOMENT OF SILENCE
- 4) 10-MINUTE PUBLIC INPUT SESSION
- 5) ELECTION OF OFFICERS
- 6) REVIEW AND APPROVE MINUTES
 - a) July 21, 2020 - if available
- 7) NOTICE OF DECISION
 - a) 21 Foxbrush (Map 50/ Lot 19) PB20-09 PID# 050-19-000– if available
- 8) PUBLIC HEARING
 - a) Surrey Lane (Map 37/ Lot 22) PB20-04 PID# 037-22-000:Four (4) Lot Residential Subdivision
- 9) OLD BUSINESS
 - a) Planning Board discussion regarding ordinance amendments
- 10) NEW BUSINESS
- 11) CORRESPONDENCE
- 12) SET AGENDA AND DATE FOR NEXT MEETING
 - a) August 18, 2020
- 13) ADJOURN
 - To view a live remote meeting: (Instructions can also be found on the Planning Board webpage)
 - a) Go to www.eliotme.org
 - b) Click on "Meeting Videos" – Located in the second column, on the left-hand side of the screen.
 - c) Click on the meeting under "Live Events" – The broadcasting of the meeting will start at 7:00 (Please note: streaming a remote meeting can be delayed up to a minute)

Instructions to join remote meeting:

- a) To participate please call into meeting 5 minutes in advance of meeting start time. Please note that Zoom does state that for some carriers this can be a toll call. You can verify by contacting your carrier.
- b) Please call 1-646-558-8656
 1. When prompted enter meeting number: 936 2607 8733 #
 2. When prompted to enter Attendee ID press #
 3. When prompted enter meeting password: 178069 #
- c) Members of the Public calling in, will be first automatically be placed in a virtual waiting room until admitted by one of the members of the Planning Board. Members of the public will be unmuted one at a time to allow for input. Please remember to state your name and address for the record.
- d) Press *9 to raise your virtual hand to speak


Denny Lentz – Chair

1 **ITEM 1 - ROLL CALL**

2
3 Present: Dennis Lentz - Chairman, Christine Bennett, Melissa Horner, Carmela Braun,
4 Bill Olsen, Mallory Strange – Alternate.

5
6 Also Present: David Galbraith, Planner.

7
8 Voting members: Dennis Lentz, Christine Bennett, Melissa Horner and Carmela Braun.

9
10 **ITEM 2 – PLEDGE OF ALLEGIANCE**

11
12 **ITEM 3 – MOMENT OF SILENCE**

13
14 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

15
16 Mr. (Charles) Kinnett, Main Street, said that he was wondering about having the addition
17 of sidewalks on Route 103 (Main Street) and how I would petition for that. We have a lot
18 of people walking along that road with dogs and kids, with cars going through there fast,
19 and I think it would be an improvement for the Town.

20
21 Mr. Lentz asked what part of the road Mr. Kinnett was talking about.

22
23 Mr. Kinnett said it would probably be about from the marina to the Meet Market.

24
25 Mr. Galbraith said that the first place to start would be to contact the Town Manager,
26 putting something in writing. He explained that the Town doesn't have much control over
27 that because it is a State road but there may be some opportunity to get some grant
28 applications as sometimes the Town can go into business, as it were, with the ME DOT to
29 work on a project such as this. Reiterating that it would start with the Town Manager and
30 he would likely filter it back towards me and the Public Works Director.

31
32 Mr. Kinnett thanked Mr. Galbraith for the information and said that he would reach out to
33 the Town Manager.

34
35 **ITEM 5 – REVIEW AND APPROVE MINUTES**

36
37 Ms. Braun moved, second by Ms. Bennett, to approve the minutes of July 7, 2020, as
38 amended.

39 **VOTE**

40 **5-0**

41 **Motion approved**

42
43 **ITEM 6 – PUBLIC HEARING**

44
45 Mr. Lentz explained the purpose and procedures for the public hearing.

46

47
48 **A. PB20-8 (Map 50/Lot 19); Sketch Plan Review – Shoreland Zoning Application to**
49 **remove an existing legal non-conforming house and rebuild a new, expanded**
50 **residence “to the greatest practicable extent”. Owners are Charles and Cheryl**
51 **Tewell.**

52
53 Mr. (Ryan) McCarthy, President of Tidewater Engineering and Surveying, Inc. (Project
54 Engineer) and Charles and Cheryl Tewell (owners) were present.

55
56 **Received: May 19, 2020**

57 **1st Heard: July 7, 2020**

58 **Public Hearing: July 21, 2020**

59 **2nd Hearing: July 21, 2020**

60 **Site Walk: July 15, 2020; follow-up July 21, 2020**

61 **Approval: July 21, 2020**

62
63 **8:10 PM Public Hearing opened.**

64
65 Mr. McCarthy screened-shared the plan while he summarized the project. The purpose of
66 this project is to demolish the existing structure on the property and build a new structure
67 further away from the river. The structure and lot are non-conforming in regard to
68 setbacks from water. The property is non-conforming because of lot size and street
69 frontage. He explained the existing site, structure, and setbacks and proposed site plans,
70 with the proposed structure and layout, using the screen. The footprint of the original
71 structure is being expanded by 30% as it existed in 1989. We are making the structure
72 more conforming by pulling it back 25 feet from the bluff. It is also going to be entirely
73 within the side setbacks – 20 feet from the property lines. The configuration of the
74 driveway is being modified slightly as an improvement so there is enough parking for
75 two vehicles, back up into the turn-around area, and ultimately head back to River Road.
76 The existing septic system is located where we want to put the proposed buildings; so
77 that will be replaced with a new septic system that is a BioBarrier System providing pre-
78 treatment to the effluent so that what flows out to the septic field is clarified water. There
79 is a tree located in the middle of the leach field that will have to be removed in order to
80 install the septic system. We are proposing to replace that tree with a new one in a
81 location closer to the water. In the allowable expansion we have taken the existing house
82 and the patio that is in front of structure to use as a calculation and the expansion would
83 be 26.7%. The impervious surface coverages are met and conforming. Existing structure
84 height is 20.65 feet and the proposed structure height is 20.5 feet. That finishes my
85 summary of this project. If there are any other items anyone would like me to touch on
86 just let me know.

87
88 Ms. (Jan) Underhill, abutter, said that I wanted to put in my support for this. I think that
89 the care that Mr. McCarthy and the Tewells are taking to prepare for all the regulations
90 and setbacks to make what would seem impossible possible, I support all of it. I think
91 overall, esthetically, this change is going to improve the shoreline tremendously. I don't
92 have dollars to put on this but I believe it's going to add value to not only their property

93 but mine, as well, and possibly on the other side with Ms. Harmon and Mr. McCarron.
94 So, I just wanted to vocally support the changes that are happening here. I think it's
95 tremendous and a lot of care has gone into this plan with all the regulations and rules we
96 have to play by within the shoreline and Town of Eliot.

97
98 Ms. (Terrie) Harmon, Foxbrush Drive, said that I bought my property in 1983 so I've
99 been with this property through thick and thin and seen a lot. I'm looking forward to
100 having good neighbors with the Tewells and I support the idea that they are demolishing
101 the existing structure, also supporting the idea that they build an 867.1-square-foot
102 footprint replacement building. That is a 30% expansion of the 1989 existing footprint,
103 which back in 1989 was approximately 660 feet, and want to make sure that all laws are
104 provided, including setback laws, and also that safety is adhered to. We're confident we
105 can cooperate on issues regarding dust, cement disposal, and all the construction but we
106 may need to get some help from the Town with those types of things that we are
107 concerned about regarding damaged to our driveway and property. The application was
108 filed in May and we didn't have any notice of that until Dan Smith came down our
109 driveway about July 5th with this piece of paper that said there was going to be a hearing
110 on July 7th. We would have been a little more prepared if we'd known about it before
111 July 5th. We did not receive certified notice on anything until just a couple of days ago,
112 which was the notice of the site walk; so, our time has been limited to prepare our
113 presentation. Talking about the footprint, in 1989 prior to zoning, there was a shack and a
114 crawl space, which was about 660 square feet, had no decks. There is a color photo in the
115 file that shows (Map 20/Lot 19) the little tiny shed in the lower left-hand corner and that
116 shed is on land of 26 Foxbrush, just incidentally. On September 15, 1989, Mr. Crowley
117 conveyed to Mr. Snodgrass. Mr. Snodgrass built two decks between 1989 and 1993, one
118 on the river and one out front. The one out front is still there. In April of 1993, by that
119 time Mr. Snodgrass had been convicted and was on his way to jail and the federal
120 government seized his house. During a forfeiture action, the U.S. Attorney commissioned
121 an appraisal, which shows the deck on the front and the deck on the back existed. In any
122 event, the Town made the federal government tear down the back deck as illegal and, on
123 the appraisal, you will see a reference to the appraiser being told by the Town that the
124 front deck was "okay". So, we're working with approximately 660 feet times .3 and .3 is
125 200.1 square feet as the multiplier; so, the total available expansion allowance is 867.1
126 square feet, the lifetime expansion limit. So, the addition of the front deck prior to April
127 1993 uses the total allowable lifetime expansion. In fact, that deck expanded from 30% to
128 50% more than the maximum allowable expansion amount. We're not asking the Town
129 to order the removal of the front deck like they did the back deck but we know it is over
130 the 30% allowance. I'm asking, for time purposes, to break my presentation into two
131 pieces. The first piece is what I just summarized and the second piece are all the other
132 matters that I wanted to address – safety, setbacks, and harm to 26 Foxbrush. The reason
133 for that is to save time. If we can present the intent of the PB rule on what it's going to do
134 about this new evidence that's just coming in about this 867.1 maximum expansion
135 already being consumed; to get that before the PB to decide to deny the application or,
136 alternatively, have the applicant come back to the PB to carry his burden of showing that
137 it is in compliance and give the applicant additional time to show compliance in light of
138 this new evidence. So, my thinking is that we could just put this over for a time to give

139 the applicant time, if the PB doesn't deny the application, then press forward to vote to
140 reschedule the matter to allow the applicant to explain their evidence or, alternatively, if
141 the PB does not reschedule, then let me further discuss my other items of discussion.
142 What the applicant needs to do is to prove that the 1989 size was anything other than 660
143 square feet and the applicant has to prove that the U.S. Attorney's appraisal was
144 somehow wrong – that the front deck of about 330 feet somehow did not, or does not,
145 exist. So, it is the deck that fully uses the lifetime expansion allowance and that deck used
146 that by 1993. So, I'm asking the PB to rule on what it's going to do about this new
147 evidence and require the applicant to meet its burden of showing compliance and, then,
148 the PB votes to reschedule and allow the applicant to do that, then that would be great. I
149 would save the rest of my comments until it's rescheduled. But I'm asking to reserve my
150 further comments tonight if the PB decides to not reschedule it for the applicant to come
151 forward and show compliance.

152
153 Mr. Lentz asked Ms. Harmon if all these things you are talking about been made part of
154 the record.

155
156 Ms. Harmon said yes. To our knowledge, I handed you a copy and the Town Planner a
157 copy of the U.S. Attorney's appraisal at the Site Walk today. I'm asking that be made
158 part of the record as submitted.

159
160 Mr. Lentz said that that was this morning.

161
162 Ms. Harmon said yes, the papers I submitted this morning to you and asked that it be
163 made part of the record if it hasn't already.

164
165 Mr. Galbraith said that I wanted the PB to know, as requested at the Site Walk earlier
166 today, I did have the Land Use Admin Assistant scan the entire packet that was given to
167 us at today's meeting. In addition, I had scanned the email exchange when Ms. Harmon
168 had brought up some issues regarding safety and I sent copies of all of it to each member
169 of the PB, Mr. McCarthy, and the applicants this afternoon around 1PM.

170
171 Mr. Lentz asked if Mr. McCarthy had any response to that.

172
173 Mr. McCarthy said that I can certainly address many of those comments. The first thing I
174 would like to address is that we've spent a significant amount of time analyzing this
175 property over a number of years. Not only with the current owner, but the previous owner
176 to this property, as well. We reviewed photographs of the property – high resolution
177 aerial photography that was completed in 1988 just prior to when the Shoreland
178 regulations went into effect to determine what square footage we should use as a baseline
179 to our calculations. If I could share my screen, I can show you those aerial photos and
180 photographs that I'm referring to. (He put up the screen at this time.) He showed the
181 property in question, clearly showing the house that is included in their calculations,
182 which was 669 square feet of existing building. Also, the shed, which we didn't include
183 in our calculations but can moving forward. It may help us but we didn't feel the need to
184 include it. We also didn't notice it, or have full documentation on it, until Ms. Harmon

185 submitted that appraisal, which provided that documentation. Ms. Harmon mentions that
186 that shed is not on 21 Foxbrush but is on 26 Foxbrush, the abutter's property. Showing a
187 survey done for Ms. Harmon of her property, he pointed to the shed that is clearly on 21
188 Foxbrush Drive. The date of this survey was 1991. He showed a photo that's been in the
189 files for quite a while, which is dated 1988 on the back of the photo, that shows the
190 house, the bump-out on the house, and the addition on the waterside. You can clearly see
191 the shed, as well, on the property, along with a number of older vehicles. The front deck
192 that is on the building now is not shown in this photo, as it didn't exist at that time. When
193 we're talking about that deck being an expansion, there's no permits in the Town file
194 regarding that existing deck, therefore, we've excluded it from our calculations. The area
195 that we have included in our calculations, other than that existing footprint of 669 square
196 feet, is the timber steps and brick inlay patio on the waterside of the building. There is a
197 question on when that went into place and, from the site walks and from Ms. Harmon,
198 she presumes that was installed when the foundation was replaced in 1995. This was a
199 point of discussion with the previous applicant who owned the property, probably about
200 two years ago, and at that time there was the same discussion of whether this should, or
201 should not, be included in those calculations. During that discussion, it was deemed
202 reasonable to include the square footage of the patio because it is likely that, prior to the
203 replacement of that foundation, there was some sort of access wrapping around the front
204 of that to the waterside of that building. I guess the PB will need to decide, since this is a
205 different application, whether or not we do, or do not, include that square footage of that
206 patio. Hypothetically, let's say we exclude it and only include the 669 square feet of the
207 building. If we expand that 669 and expand it by 30%, we're at roughly 870 square feet.
208 The regulations say that you can expand your structure by 30% greater than the footprint
209 as it existed in 1989 or up to a 1,000-square-foot footprint, whichever is greater. The
210 difference between our calculations are that, if we include the patio that wraps around the
211 waterside and the building, it brings us to 1,085 square feet. If we exclude that patio on
212 the front of the building, we would default to 1,000 square feet. So, it's a difference of 85
213 square feet and since the proposed building is 1,058 square feet, we would just need to
214 shave 58 square feet off of the proposed building. Ms. Harmon provided an appraisal
215 earlier today that I just received a copy of this afternoon, which he put up on the screen,
216 and is dated 1993. The square footage that they came up with for the existing building
217 was actually 944 square feet and scrolling further it shows how they came up with 944
218 square feet – 7'X4' is the small bump-out on the front of the building, 29'X24' is the
219 main building, and the 10'X22' is the addition on the waterside, totaling up to 944'. This
220 does not include any decks or patios. He showed the sketch of the building to document
221 the shape, the same as what we are using in our calculations, except that our actual
222 measurements of the building are different from the appraisal. The appraisal shows 944'
223 and we have 669 square feet. If we want to use the square footage of the appraisal as the
224 documentation, that will just increase the amount we can expand, which would be 1,200
225 + square feet. 30% of that would be 1,292 square feet. We don't agree with the appraisal
226 and the dimensions and areas of calculations provided in this but, just as a point of
227 reference, also included in this appraisal is the assessment by the Town, dated 1988. On
228 that Town assessment, it shows 724 square feet of the building, the front bump-out is 220
229 square feet, totaling up to 944 square feet, as well. It also documents that the shed is on
230 the property, roughly 70 square feet. If it is the majority of the PB that we use the

231 appraisal provided and the assessment provided from the abutter, we can certainly do
232 that. All it's going to do is increase the amount we can expand, up to 1,292 square feet.
233 Again, I don't agree with the calculations on the appraisal or the assessment. Those are
234 rough calculations and, clearly, there was an error at some point I believe; so, we default
235 to the actual measurements of the building based on our survey and our measurements.
236 Coming back to the site plan, again the question would be whether the PB decides we
237 can, or cannot, include this area of the patio. If we exclude it, we default to 1,000 square
238 feet of an expansion. If we include it, we default to 1,084 square feet of an allowable
239 footprint in the proposed scenario. In either case, we are proposing 1,058 square feet. If
240 you default to the appraisal, we're still in compliance and I think the applicant will likely
241 keep the structure in the same configuration and shape he has proposed versus going back
242 to the drawing board to now propose a structure for 1,292 square feet. I believe that
243 covers how I can document that we've provided sufficient evidence to clearly show that
244 we've estimated the existing footprint as of 1989 correctly.
245

246 Mr. (Tom) MaCarron (26 Foxbrush Drive) said to take a rough calculation on the outside
247 of the building, which is the true measure of the footprint, to go out there with a
248 yardstick, now...I have some old calculations from when _____ wrote me a letter in 1993
249 about the footprint and it was...well, the numbers that we were using at that time of the
250 overall structure is the same as it is now. Without the decks it was 39'X16' and that's
251 allowing for squaring it off, which is less than that but, if you take just the maximum
252 outside of the building as you look at it, that comes to 624 square feet. If you take the
253 bump-out, that's another 32 square feet. So, the total reasonable approach, looking at the
254 actual physical dimensions, is 656 square feet. It's the same now as it was in 1989. I
255 don't know what yardstick the appraiser used but there are some photographs in the
256 appraisal in 1993 that show the exterior of the building. It shows that area underneath
257 where the illegal deck was as essentially a rubbish dump. There's still nothing there.
258 There was nothing there to begin with. The patio was actually put in after the foundation
259 because the foundation squared off the building and that's when the bricks were put in
260 and the steps were put in and that is easily determined with him if somebody wanted to
261 go and check with his records. So, it's convenient to say that the patio was always there
262 but that's just incorrect. It's just a matter of what is the baseline. It seems to me a
263 reasonable person would say that a baseline is what was there. As far as the position of
264 the shed, the position of that shed has moved off-an-on over the years and there may have
265 been a shed for 'this' and a shed for 'that but it doesn't amount to a lot of square footage.
266 But, use it or not, the physical structure baseline is the same now as it was then with the
267 foundation.
268

269 Mr. Lentz asked what point Ms. Harmon and Mr. MaCarron were trying to make. I
270 understand the differences you are bringing up in measurements but what is your point.
271 How does it affect you. You said awhile ago that you were happy to have new neighbors.
272 As presented, how does this impact you or your property.
273

274 Ms. Harmon said that that gets into my other materials I wanted to talk about if the PB
275 isn't going to decide the legal question of how much the property was expanded by 1993
276 by adding that front deck. We think the PB should decide that the full lifetime expansion

277 of 30% was done in 1993. So, if we just stop there and give the applicant a chance to
278 refute that, because we've got the evidence now; we've presented that as part of the
279 record, the that is what we're saying. We want to go by the law and the law says what it
280 says about 30% expansion. We've set out a case, with evidence – documentary support,
281 that the property was expanded by over 30% since 1993 and that's the end of the story.

282
283 Mr. Lentz said that I will ask again. How does this impact your property. You, as an
284 abutter.

285
286 Ms. Harmon said yes, I am an abutter. And the goal would be to have the new structure
287 be limited to the allowable amount by following the law so that the structure that is re-
288 built will have less safety concerns and also wear and tear on the driveway. We don't
289 have a turn-around, or easement, trucks and so on turning onto our land. I guess I say that
290 the impact on us is that we had a very small, one-bedroom neighbor on that fully
291 expanded building that we understood was going to be it; that the 800+ square feet would
292 be the maximum allowed use to make it a small, tasteful 800+ allowable footprint. It will
293 make better use of the space. The lot, itself, is substandard, a non-conforming lot. The
294 coverage is very high for an otherwise 2-acre, Shoreland Zoning area with putting a
295 three-bedroom, 2-bathroom house basically covering a lot of the lot. It's just too much.
296 The 800+ square-foot legally allowable expanded footprint we're all in favor of, happy
297 about. Happy about the re-construction held at the 800 allowable lifetime expansion
298 amount.

299
300 Mr. Lentz said that the PB is not here to settle disputes between neighbors. We take the
301 information that's brought to us and we do make sure that it does meet the ordinances.
302 Now, if someone is lying, or someone isn't being truthful, that is not up to the PB to try
303 to bring that out. We take the information that we're given and, unfortunately, when there
304 is some kind of dispute like this, it's not something that the PB should really get into. I
305 think you have some other avenues that you can choose to use but I am truly interested in
306 how this impacts your piece of property, whether it be the road, the turn-around, or
307 whatever it is. Those are the things I'd like to see documented.

308
309 Ms. Harmon said that we have presented evidence. It's not a difference of opinion. The
310 evidence is that the property was 660 square feet in 1989. It was overly-expanded by
311 1993. That's part of the record and it's evidence and it's the legal burden of the applicant
312 to carry the day and say somehow that is incorrect. So, it boils down to the Town
313 following what the law says to protect all of us. We have put in evidence that shows, for
314 whatever reason, that somehow something didn't get included but it has been expanded to
315 the maximum amount as of April 1993.

316
317 Mr. Olsen asked if we could bring up the Town's assessment of the property; that I
318 believe Mr. McCarthy had put that on his screen earlier. I believe that dates back to 1988.

319
320 Mr. McCarthy screen-shared the requested document. Mr. Chairman, we stand by our
321 calculations. We don't approximate by doing a general or left angle; we locate every
322 corner of the building. We calculate it very precisely and that's how we came up with

323 669 square feet. I don't think that Ms. Harmon and I are disagreeing very much on that
324 footprint, maybe 9 square feet. We're all in agreement that that existing footprint, as of
325 1989, of the building was right around...well, we say exactly 669 square feet. Regardless,
326 it doesn't make a difference, based on the current ordinance and how the ordinance is
327 written. You are allowed to expand the structure by 30% of the footprint or 1,000 square
328 feet, whichever footprint is greater controls. So, even if we look at just the 669 square
329 feet and times that by 1.3, the 1,000-square-foot footprint controls. We're proposing a
330 structure that is not huge. It is 1,058 square feet. It has one bedroom on the first floor and
331 the other two bedrooms are in the basement. When we talk about coverage on this lot, by
332 no means is coverage on this lot excessive. We're bound by a 20% non-vegetated surface
333 area for the Shoreland Zone. On the shared screen, existing impervious surface is at 20.3
334 and, again, that excludes the deck. The proposed scenario brings that down to 20%. That
335 meets what is proposed for the Shoreland Zone for coverage. That's not excessive. If you
336 look at the building coverage for the zone, building coverage cannot be more than 15% of
337 the lot size. Existing building coverage is 7.9% and, in the proposed scenario, that
338 increases to 10%. We're still below 15%. I think the question is that Ms. Harmon is
339 proposing, and she can correct me if I'm wrong, is that the existing structure was already
340 expanded once this deck was put on. There are no records in the file, that we've gone
341 through it with a fine-tooth comb, of this deck ever being permitted. We think it's illegal,
342 we are removing it, and we're not including it in the calculations. That's out of the
343 picture. So, again, we stand by our calculations. We've provided all the supporting
344 information. And again, regardless, even if you use 669 square feet, you're bound by a
345 1,000-square-foot footprint based on all the regulations that are written. It's very clear.
346

347 Ms. Horner said in order to move this forward, we are in a public hearing right now and if
348 I could recommend that if Ms. Harmon has anything else to say, I think we should listen,
349 or anyone else has anything to say we listen, then bring it back to the PB and applicant to
350 discuss. If there is a disagreement between an applicant and an abutter, the public hearing
351 is to hear that but not to solve the problem. We just need to listen to what is being
352 presented to us.
353

354 Mr. Lentz said that I agree with you, Ms. Horner. Is there anything else Ms. Harmon has
355 to say.
356

357 Ms. Harmon, addressing Mr. Olsen, said that the document you were talking about that
358 Mr. McCarthy brought up I think was updated. It's unclear to the far left. But what
359 happened was that when Mr. Snodgrass got in trouble with the law, he conveyed the
360 house to his son for a gift. You will see on this Dana B. Snodgrass Junior and there's a
361 date of 8/19/1992. I wanted to point that out. It looks as though it was originally
362 9/20/1988 but over to the left it was 1992 after it was owned by the son. So yes, the 660
363 square feet of the building we can agree on. That and the question of law is whether the
364 PB, in the face of this direct evidence, can approve something that we have put up
365 evidence saying that there is an expansion as of 1993. And we've shown pictures and
366 have the appraiser's report that the appraiser talked with a Town official and the Town
367 official said that the front deck was "okay". So, the Town official approved this appraisal
368 per the writing on the appraisal; so, the Town had knowledge, according to this, of that

369 front deck. To talk about the setback laws, the river setback is 25 feet, the frontline
370 setback is 30 feet according to the laws. These two laws are dueling with each other,
371 conflicting with each other, in this tiny little space. It is difficult or impossible to comply
372 with both of those laws. We mere mortals are tearing our hair out trying to figure out how
373 that can work. The law doesn't have an exception for less than 30 feet, whether it's a
374 right-of-way or it isn't on a road. So, that's a problem we're all suffering with because
375 the law doesn't speak to what happens when and the law doesn't say there's an exception
376 because it's on a right-of-way you get to do 20 feet. So, it puts us all into being creative
377 and when is a front a side and when is a side a front and when do we have three sides and
378 one back. This is another problem with the law that is not clear to us about what we do in
379 these situations. But it does not permit the Town to allow this setback to be less than what
380 the law says. The setback law says 30 feet so the setback laws need compliance. Who
381 suffers if we allow the building to go ten feet. Well, the river suffers.

382
383 Mr. Lentz said that I am going to ask you to stop now. This could go on and go on and
384 I'm going to close the Public Hearing.

385
386 Ms. Horner said that Ms. Underhill had her hand raised for a while.

387
388 Ms. Underhill said that she just wanted to reiterate that she was very supportive of this
389 application.

390
391 Mr. Lentz reminded the PB that this was to relocate a building to the greatest practicable
392 extent that could be done. That's all. That's the rule. The question is did they do that.

393
394 **7:58 PM Public Hearing closed.**

395
396 Mr. Galbraith said that Mr. McCarthy and I actually discussed this. I had a meeting with
397 Ms. Bishop (CEO) and if there is an interpretation that needs to be made legally, it's the
398 CEO, who works with the Town, who gets to make that determination. This lot, as many
399 lots in Town that were created prior to zoning, when we looked at it we determined that
400 the front of the house has a side yard; so, the way that we calculated it is you have one on
401 side the water, which as the 25-foot setback from the resource, and then, its three other
402 sides are side yards. And we would do similar things, for example, if you had a corner lot
403 with frontage on two streets, they have to meet the frontage setback on both streets and
404 then they would also be considered to have two side yards or two rear yards if the
405 setbacks are the same. That's how we looked at it with this. The lot doesn't have any
406 street frontage on a Town-accepted roadway. It's accessed through a right-of-way
407 agreement that's been in effect since 1931, if I remember correctly, and that's how we
408 evaluated this case.

409
410 Mr. Lentz asked if there were questions or comments from the PB. Any questions of Mr.
411 McCarthy. Once again, I don't know where we are going with this. Personally, I don't
412 see any objective as far as impacts to abutters. Only that there are some questions about
413 what is legal and what is not legal as far as the ordinances are concerned. So, where do
414 we go.

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Ms. Horner said I can definitely appreciate an abutter wanting to follow the ordinances. I don't think, technically, they're laws. They're ordinances in Town. It's a little bit tricky because it feels like we are arguing over 100 square feet, or something like that. So, after listening to the Harmon's and listening to Mr. McCarthy, I'm leaning towards the applicant. I work with appraisals all the time and you can't believe those things. Even on the listings it says that all measurements must be made by the buyer. Our house doesn't have the right square footage. You can't believe it, no matter who is doing an appraisal, and all of that stuff. I'm more apt to believe someone who is measuring every corner and not squaring things off. I'm comfortable with the application the way that it is and I'm comfortable moving forward on it.

Ms. Braun said that I'm comfortable with it, as well. Mr. McCarthy was very precise this morning in his presentation and he answered my questions appropriately; so, I am very comfortable going forward with this.

Mr. Olsen said that I certainly see the points that have been raised. I think the question becomes the Town was assessing this property at a larger square footage. The applicant clearly notes that there is no record of the front deck being approved, authorized. So, it's a non-conforming, they didn't put it in, so I really think that takes care of the question of this already being approved, which I think the abutter was trying to show. I also look at it and it seems like everybody's got a bigger number than 669 square feet, which I do think based upon the applicant's representation. I'd probably say that sounds more accurate than the Town Assessor, or the appraisal. But if we're going to move to a number, I would probably say, you're probably going to see the number go up as opposed to, from my perspective, go down. I think the applicant has presented a great plan to improve a pretty ugly existing structure that does not meet what we want for the coastline. It fixes a lot of errors and I think it improves the property values of both abutters.

Ms. Bennett said that I think that Mr. Olsen just did a great synopsis and I agree with all of those points. We have a lot of documentation presented to us, whether it is accurate or flawed, it's been part of our records, and other records, which stated that the structure without the deck was 994 square feet. The applicant has done a lot of due diligence on trying to get an accurate measure of what existed at the time of the Shoreland Zone going into effect. By moving the structure away to the furthest extent possible from the resource I think they are following the spirit of that rule. I understand that the abutters have raised a salient point about the front yard setback or the side yard setback and how that is interpreted. This is a very unusual piece of property. It is non-conforming in every way it probably could be. I am hard-pressed to deviate from what our Town Planner and our Code Enforcement Officer have come up with as far as a recommended setback for what is a side yard or a front yard. This property doesn't have a typical front yard. It does not abut a State or Town road. It is not part of a subdivision or a larger property that has an interior road. Where is this front yard. I think that probably the most accurate way to look at that is the measurement of that right-of-way. The right-of-way is the distance of the subject property to the Town road and that is far in excess of 30 feet. So, I think re-

460 locating the structure on the property where it is is satisfactory and consistent with the
461 code, as much as this property can be.

462
463 Ms. Strange said that I would agree with the points made by the PB members. I do think
464 there's been a lot of due diligence on the part of Tidewater to show us that they are doing
465 everything they can to align this, given the uniqueness of this property.

466
467 Mr. Lentz thanked the PB members and asked for the pleasure of the PB.

468
469 Ms. Horner asked Mr. Galbraith if we've done everything we need to do. Can we move
470 forward on this.

471
472 Mr. Galbraith said yes. This is a public hearing this evening. The PB can move forward
473 on this if they want, unless there is other information that the PB wants.

474
475 Mr. McCarthy said that the only thing I didn't mention tonight, I want to follow up with a
476 question from Ms. Braun from the Site Walk. We are required to get a Maine DEP Permit
477 for this activity. We applied for it on July 9th and received approval in two business days,
478 which was granted on July 13th. We do have that in-hand and so does the Town and I've
479 asked Mr. Galbraith to include it in the file.

480
481 Mr. Lentz thanked Mr. McCarthy, commenting that he did see a copy of that this
482 afternoon. Is there anything else. What is the pleasure of the PB.

483
484 Ms. Braun asked if we could move forward with this.

485
486 Mr. Lentz said that if you think it's ready to move forward, we can. Is there anything else
487 you need to make a decision.

488
489 Ms. Braun said not from my perspective, no.

490
491 Mr. Lentz said that I think, then, that we are ready to move forward.

492
493 Mr. McCarthy said that, for full transparency, one of the questions I was looking for
494 discussion from the PB is whether or not you are comfortable with us using the timber
495 steps and brick patio as part of the 30% expansion calculation, as we have submitted to
496 you on the basis that there was likely something there before. I'd bite my tongue but
497 asking, for full transparency, whether the PB would want to discuss that before moving
498 forward with an action.

499
500 Mr. Lentz said that I took a good look at that. In my opinion, there had to be a way to get
501 down to that deck by the water, or that patio or whatever it was. It's looks to me like it
502 was part of the pad made with the bricks and those timbers, the steps going down around
503 toward the waterside.

504

505 Ms. Bennett said that I was on the PB when this property was discussed by another
506 applicant and I do recall that discussion about the walkway/patio at that time. I think that,
507 in fact, at the time I was one of the people that was resistant to using it but there was a
508 compelling case made by the PB at the time about just what you said; that in all
509 likelihood there was something there to navigate around the property. I think, in all
510 fairness, since we had made a decision with the prior applicant on this property to include
511 that portion, I would be in favor of granting it to this applicant.
512

513 Mr. Olsen said that I am fine with that rationale. I'm also of the belief that based upon
514 assessments and also appraisals, this footprint could be bigger, anyway. So, as a side
515 note, I'm fine. That logic makes perfect sense to me.
516

517 Ms. Braun said that I am fine with it, as well. It was obvious to me that that had to be
518 there in order for them to get down at some point. Where it was agreed to at a previous
519 application, we should allow it.
520

521 Mr. Lentz asked Mr. McCarthy if that answered his question.
522

523 Mr. McCarthy said yes, Thank you.
524

525 Mr. Lentz said that the Chair will entertain a motion. What is the pleasure of the PB.
526

527 **Ms. Horner moved, second by Mr. Olsen, that the Planning Board find PB20-8 be**
528 **accepted, to include the Maine DEP Permit, with the following conditions of**
529 **approval:**

- 530 1. **The property may be developed and used only in accordance with the plans,**
531 **documents, material submitted, and representations of the applicant made**
532 **to the Planning Board. All elements and features of the use as presented to**
533 **the Planning Board are conditions of approval and no changes in any of**
534 **those elements or features are permitted unless such changes are first**
535 **submitted to and approved by the Eliot Planning Board. Copies of approved**
536 **permits from Maine DEP, Army Corps of Engineers, if applicable, and State**
537 **shall be provided to the CEO before construction on this project may begin.**
- 538 2. **The permit is approved on the basis of information provided by the**
539 **applicant in the record regarding the ownership of the property and**
540 **boundary location. The applicant has the burden of ensuring that they have**
541 **the legal right to use the property and that they are measuring required**
542 **setbacks from the legal boundary lines of the lot. The approval of this**
543 **permit in no way relieves the applicant of this burden. Nor does this permit**
544 **approval constitute a resolution in favor of the applicant of any issues**
545 **regarding the property boundaries, ownership, or similar title issues. The**
546 **permit holder would be well-advised to resolve any such title problems**
547 **before expending money in reliance on this permit.**
- 548 3. **The applicant authorizes inspection of premises by the Code Enforcement**
549 **Officer during the term of the permit for the purposes of permit**
550 **compliance.**

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VOTE
5-0
Motion approved

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.

Mr. McCarthy said that I want to thank the whole PB on this one. You all spent a lot of time and had a lot of patience on it and I thank you for that. I also want to say that Mr. Galbraith did a great job with his communication back and forth in emails and keeping us all up-to-date.

Mr. Galbraith asked if the NOD would be available for the next meeting on August 4th because we're finalizing the agenda tomorrow morning.

Ms. Lemire said yes.

ITEM 7 – OLD BUSINESS

B. PB19-24 – Main Street Subdivision (to be named at a later date) (Map 6/Lot 44 & 154) 787 Main Street & 0 Main Street; 7-Lot Residential Subdivision.

Received: December 20, 2019
1st Heard: January 21, 2020 (sketch plan)
2nd Hearing: July 21, 2020 (sketch plan)
Site Walk: _____, 2020
Approval: _____, 2020

Mr. (Tom) Harmon, P.E., Civil Consultants, and Mr. (Kris) Glidden, owner, were present for this application.

Mr. Lentz said that we had a Site Walk this morning – myself, Ms. Braun, Mr. Olsen, Ms. Strange, and Mr. Galbraith – to look at, mainly, the new intersection of the proposed new Town road with Main Street. I suppose you all have looked at Mr. Galbraith's summary so I'll open it up to the PB and applicant.

Mr. Harmon said that I think we've been through most of this subdivision. The way we had left it at the last meeting, prior to the site walk, we are interested in having consensus on the waiver on the separation to Aqua Avenue. That really is the purpose for us coming back to the PB this evening. There is a lot of work that needs to be done to put in a full application and we would prefer to have consensus of the PB that that access is going to work. I think you have all the information you need to make a decision. Anything we do further really does not impact this entrance.

597 Ms. Horner asked if the PB has that power or is that a Board of Appeals (BOA) decision.
598

599 Mr. Lentz said that Mr. Galbraith had a legal review done and the PB does have that
600 capability of making that waiver.
601

602 Ms. Horner said that she didn't see that.
603

604 Mr. Galbraith said that I had a long conversation with the Town's attorney about it,
605 making sure we didn't have to go to the BOA, but that ordinance puts that onto the PB.
606 Any decision to waive the distance requirement would need to be based on something,
607 which is why this morning Mr. Harmon showed the site distances on either side of the
608 proposed entrance. I believe we had 700 feet in one direction and 800 feet in the other
609 direction and it's a 35-mile-per-hour posted road.
610

611 Mr. Lentz said that it is a State road. They do have a State entrance permit for that road.
612 In my opinion, the line-of-sight is not an issue in either direction. There is one issue in
613 my mind and that is the relationship between the new road and Aqua Avenue. Our
614 ordinance says 400 feet and I think we're at 150 feet.
615

616 Mr. Galbraith said that I think it is at 125 feet and would ask Mr. Harmon to confirm that.
617

618 Mr. Harmon said that it is 145 feet.
619

620 Mr. Galbraith said that it would be as measured centerline to centerline.
621

622 Mr. Lentz said that we would be waiving that difference between 400 feet and 145 feet.
623

624 Mr. Olsen said that I am not supportive of that. Because the entrance to this is already 70
625 feet as opposed to 100 for a development of seven lots, I don't think that's consistent
626 with what we want; so, I am not supporting this waiver.
627

628 Mr. Galbraith clarified that the actual ROW, as proposed, is proposed to be what is the
629 existing frontage for the existing lot, which is already legally non-conforming. The
630 pavement width is not going to be 70 feet wide.
631

632 Mr. Olsen said that I understand regarding the pavement but the actual entrance is 70,
633 that land mass. The actual opening for the pavement is probably going to be 40 or 45 for
634 the extra space that you need for the postal pick-up. Isn't it supposed to be at 100 feet.
635

636 Mr. Galbraith said that, normally, the rights-of-way will be at 40 to 50 feet of actual
637 ROW width. It depends on what's being proposed. It will flair out for the postal service
638 to be able to deliver to a gang mailbox; that it was going to be widen enough that they
639 didn't have to back out onto Main Street; so, it will be wider where the gang mailboxes
640 are. When I talked with the postal service at the site walk, they said that's what they
641 desired.
642

643 Mr. Harmon said that a typical ordinance, and your ordinance, requires 40 or 50 feet
644 minimum of ROW. In this instance, there is 70 feet of space for us to put a 50-foot ROW
645 in there. In some instances, we might turn that whole 70 feet into ROW. The extra 10 feet
646 doesn't really do anything for you so I think what you need to think of this as is a
647 roadway coming in between two lots, one to the north and one to the south. You would
648 typically have a 50-foot ROW between those two lots to get to back lots, other lots. In
649 this instance, you have 70 feet rather than 50 feet.

650
651 Ms. Braun said that I am not in favor of granting this waiver. Basically, for the safety of
652 others. It's not enough between streets. Yes, it's a State road and yes, they do have a
653 speed limit, however, you know that people don't adhere to that speed limit and do go
654 faster. So, in my mind, it's the safety of all concerned.

655
656 Ms. Bennett said that I am also having a hard time with this waiver and one of the things
657 I noted is just how large it is, how much we're waiving here from our standard. We're
658 taking this down by more than half of what is required by our ordinance in order to
659 accommodate creating a new road. We're not talking about a driveway or a shared
660 driveway from one or two lots. We're talking about something that is being proposed to
661 then be built and given to the Town to take care of in perpetuity and I think we could be
662 creating some public safety hazards by having a road that is going to service as many lots
663 as Aqua Avenue is, almost, jammed right up against each other. Those are my thoughts.

664
665 Ms. Strange said that when I saw it today, I did feel there was significant ability to see on
666 either side for traffic exiting. However, Ms. Bennett does bring up a good point of how
667 much we are really waiving and the concern for the precedent it sets.

668
669 Ms. Horner said that I could go either way, unfortunately. It sounds like I am outvoted,
670 anyway, if we are coming to consensus. I live in this area where this subdivision is going
671 to go. That intersection of Bolt Hill Road and Pleasant Street, to me, is much more
672 dangerous than this. My first question when we were talking about this is how Bolt Hill
673 and Pleasant Street go in if we're supposed to be following these ordinances, and maybe
674 that ordinance came in after those roads were already in place. I can think of so many
675 places in Town where this isn't a thing, where there's roads on top of roads. I don't feel
676 strongly-enough about it to have a formed opinion.

677
678 Mr. Lentz asked if we needed to have a motion on this.

679
680 Mr. Galbraith said that I think before we have a motion you might want to open it to the
681 public for any public comment.

682
683 Mr. (Charles) Kinnett, Main Street, said I am the abutter adjacent to the north end of the
684 new entry of this road. I think it is a safety concern. I think if you look at the waivers,
685 imagine me trying to back out of my driveway...a car approaching from Aqua Avenue, a
686 car approaching from the new proposed street, and we all want to go into the road at the
687 same time, I think that's a safety hazard. I think that should be thought of. I appreciate the
688 previous PB member's input and I understand that it's the PB's decision.

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Ms. Horner said that I would ask what's the difference between that and three people who live right next door to each other. I'm just looking for someone to convince me, I guess, if we had to vote on it. I just don't understand the rationale because even the street I live on, Alvin Lane, we're right across the street from Pickering Drive. And there's a driveway right in front of my road and there's another driveway to the right and the end of my street is right next door to somebody else's driveway, and there's six houses on my street. So, I'm just having a hard time...I guess I'm in support of the waiver.

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Mr. Olsen said that I think that the big thing is that we're being asked to look at the ordinance and the ordinance says 400 feet. From my perspective, I can't see where waiving to 145 feet represents the solid...to me there's no rationale to provide this waiver because we have bad streets through Eliot. A lot of them were created before the automobile was created. I don't think in this day-and-age where people do regularly drive 10 over the speed limit...I don't find any basis for me to support this.

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Mr. (Kris) Glidden, applicant, said that I appreciate everybody's comments and I agree that safety is always a concern. I also think looking at the fact that this is not a through-street that is crossing Main Street. It's going from one to the other. It's similar to having a driveway coming out and people are going to take a left or right. The line of sight is very vast. You can see down both ways, particularly if there were two cars, one coming out of this driveway as well as Aqua. There is plenty of distance to see and, again, not having to go across Main; like other is Eliot that you're taking a left or a right, it's not a cross-street. Aside from that, again, I guess it is a large percentage based on the current ordinance but we are asking for one waiver, not 6 or 7 waivers as we've seen with other developments. I think that, with the width and sight line on this, safety isn't really going to be much of an issue.

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718

Mr. Lentz asked Mr. Galbraith if we needed a motion.

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725

Mr. Galbraith said that I think tonight's meeting was for the applicant to get some guidance because of the cost involved in engineering the rest of the site. If the waiver isn't granted, I don't know whether the property owners are going to want to move ahead with this, or not. I don't know if Mr. Harmon wants just a general consensus. I don't know if we need a vote or if there's more information that would help the PB or the PB wants to request anything.

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731

Mr. Harmon said that my understanding is that a sketch plan is simply an advisory meeting and I don't believe a vote is necessary on this. Basically, what you're telling us is that if we continue with an application, your PB will turn down the application because of this required waiver. So, I don't think it needs a vote and I'm not sure the vote even carries any weight.

732

733

734

Mr. Galbraith agreed. We don't need an official vote right now. We just wanted some direction.

735 Mr. Lentz asked if Mr. Harmon got the advice he needs.

736
737 Mr. Harmon said not the advice we need but we got advice.

738
739 **ITEM 8 – NEW BUSINESS**

740
741 **A. PB20-9, 17/19 Levesque Drive (Map 29/Lot 26): Preliminary Review – Marijuana**
742 **Testing Facility within the Eliot Commons Professional Park. Applicant Guy**
743 **Sylvester dba CATLAB, LLC.**

744
745 **Received: May 20, 2020**

746 **1st Heard: July 21, 2020**

747 **2nd Hearing: _____, 2020 (preliminary sketch plan)**

748 **Site Walk: _____, 2020**

749 **Approval: _____, 2020**

750
751 Mr. (Guy) Sylvester, applicant, was present for this application.

752
753 Ms. Horner asked if this is technically like a sketch plan review.

754
755 Mr. Lents said that it is a preliminary sketch plan, yes.

756
757 Ms. Horner said that I guess I would ask that the adult use be removed because that's not
758 legal, yet. The sketch plan is for adult use and medical marijuana testing.

759
760 Mr. Sylvester said that the Office of Marijuana Policy is asking laboratories to set up
761 facilities so that by the time the regulations go into play, which some of these steps are
762 going to be required by the end of December and the full load of tests will be required by
763 the end of June. So, by the end of June, all tests that are in the regulations for the Office
764 of Marijuana Policy will be required of all marijuana storefronts and producers. At this
765 time, the Office of Marijuana Policy does not distinguish with the testing laboratory
766 medical or recreational marijuana. It's one in the same. With the laboratories, we are only
767 going to be regulated, then we will be certified by the State, and federally, by ISO 17025
768 to conduct the tests on marijuana that's required by the State. It is not differentiating
769 between adult and medical.

770
771 Ms. Horner said that I can appreciate that and this is just a sketch plan for you to be here
772 to hear our opinions on. Correct me if I'm wrong, but the towns are allowed to have more
773 stringent rules, so to speak, than the State. So, I appreciate what you're saying but, in
774 order to move on this application, we can't grant you the right for adult use testing
775 because it's illegal right now.

776
777 Mr. Sylvester said that, if that's the case, then it's done. I've been in the business since
778 1980, was president of a national laboratory group. Then, in 2000, my wife and I bought
779 a small, 6-person lab in Portsmouth, NH and now it's a 30-person laboratory and it's a
780 great lab. When you set up a facility, in order to get certified, it takes you at least three

781 months to get that certification through the State and through the federal government. So,
782 I'm not sure if the State or the federal government don't recognize a difference between
783 medical or recreational marijuana. I'm not sure what the difference would be other than
784 we are not allowed to get licensed or certified for recreational; that's the majority of our
785 revenue.

786
787 Ms. Horner said that I did say it was about the license. I'm strictly talking about the
788 application.

789
790 Mr. Lentz said that I guess I'm not following you, Ms. Horner. What is your objection.
791

792 Ms. Horner said that my objection is that recreational marijuana isn't legal in the State of
793 Maine, yet, so how can we give someone permission to open a lab to do that.
794

795 Mr. Galbraith said that this is the first testing application, and I think this would be the
796 fourth that the State has issued a conditional use permit. We have represented to any of
797 the folks who wanted to do adult sales that we would not even start processing or
798 accepting applications until they had a conditional use permit from the State, whether it
799 be selling adult or medical marijuana or testing facilities. We have been working on the
800 project for a few months, now, but Mr. Sylvester did get a conditional use permit granted
801 by the State to set up shop. Additionally, what would happen is that they are looking to
802 get approval of the testing facility location yet they still need to go through other forms of
803 approval. For example, after the PB votes on it, if they vote in favor of the testing facility,
804 then it goes to the SB and they would go through the licensing process with the applicant.
805 Once the SB would vote in favor of it, that approval is then sent back to the State. The
806 State, depending on their timeline, would eventually issue a full-blown use permit for that
807 particular site. If it's not yet legal with the State, I think we would wait until we have the
808 full-blown approval from the State and it's gone through all the local authorities and
809 reviews before we would issue a Certificate of Occupancy on this. Again, it's testing
810 marijuana, but when we are discussing the application, I want to make clear to the PB
811 that this is going to be adult use and medical testing.
812

813 Mr. Lentz said that I don't want to hold this up but usually Ms. Horner and I track pretty
814 well together but, this time, I'm completely confused.
815

816 Ms. Horner said that I apologize. You all know how I feel about this cannabis stuff. It just
817 feels weird to be seeing an application for something that isn't even allowed. I don't
818 understand why the application can't be changed to medical marijuana and, then, when
819 and if adult use is allowed, they come back to get an additional use. And, just because I
820 sound like I'm right doesn't mean that I'm right, it just seems odd to me.
821

822 Mr. (Peter) Billipp, real estate broker, said that adult use marijuana was approved about
823 three years ago in the State of Maine. Each town can choose to opt in, or not, and Eliot
824 has chosen to opt in. Mr. Sylvester is only trying to set up a testing lab, which would
825 indeed test adult use as it would medical; so, to say it isn't allowed I think is inaccurate.

826 Could we just start the application at page one and move through it and have Mr.
827 Sylvester talk about the operation.

828
829 Mr. Lentz said that that is where I think we need to go. I think you've done a marvelous
830 job in putting a package together. I spent several hours going through it and it was
831 excellent. He invited Mr. Sylvester to give an overview.

832
833 Mr. Sylvester said we do not have a storefront, we will not be selling, we do not produce
834 any marijuana. The way the regulations are set up, we would have to go out to the
835 customer and pick up samples. It's all highly regulated, as are the labs I've worked with
836 in the past. We will be testing the same type of analyses; so, we will be looking at
837 pesticides, insecticides, metals like lead, cadmium, mercury, to make sure these plants
838 have the legal limit within testing that we do. With the building, itself, we are not
839 planning to make any changes to it. We're not planning on doing anything except
840 upgrading some electrical for some of these pieces of equipment. The equipment is hi-
841 tech and some are upwards of \$250,000 a pop. We will have very hi-tech individuals that
842 will be working there. The security system, which I've talked to Chief Moya about, is
843 also very highly regulated and I do have a security plan that's in your packets. Cameras
844 on the front and back doors, inside and outside. There will be cameras on the inside in the
845 production area, as well as the storage area and hazardous waste area for disposal. There
846 will be motion detectors in each and every room that has an external window and a
847 motion detector in the common areas. The security is pretty tight but that is in the
848 regulations that the Office of Marijuana Policy has put in place. I tried to get ahold of the
849 Fire Chief, but he was on vacation, to just go over what we are doing. We will have a fire
850 alarm system in place. We, as a laboratory, have a very detailed safety manual and, in
851 addition, we have State SOP's for all of the methods that we run, for collecting of
852 samples, log-in of samples, etc. We have a quality assurance manual that is basically
853 specific to the production and the analyses of the tests and those SOP's and quality
854 assurance manual are what the State and the agencies that oversee the ISO 17025. It's
855 very similar to the type of work I've done in the past. It's just the industry is different. I
856 think the fact that we have already received our conditional license by the State says a lot.
857 The package that you have been given is what they evaluated for completeness. The way
858 the rules work is that we cannot get into this building, or we won't close on the building,
859 itself, until we have an occupancy permit from the Town of Eliot. Once we have that, we
860 can order more equipment, hire more people than just the managers I've got lined up
861 now. It will take us about 3 to 4 months to get actually certified and, then, probably
862 January or February there's an additional set-up and that's because the regulations for the
863 testing come into play at the end of December. Then, at the end of June, the rest of the
864 testing comes into play and we'll be ordering more equipment at that time. So, we would
865 be glad to answer any questions with regard to the application, my background, or the
866 people I have slated to come to work.

867
868 Mr. Lentz said that I believe I read that there are only four facilities in the State of Maine.

869
870 Mr. Sylvester said that I actually looked that up. Today there are actually three. There is
871 Nelson, who was just given their conditional license on the 17th. There is NOVA and,

872 then, this lab – CATLAB, and those are the only conditional licenses given so far. My
873 understanding is that there is one other lab that is looking to get certified, as well. It's
874 kind of a catch-22 but the reason these licenses haven't been given, or the regulations on
875 the producers and storefronts hasn't gone into play yet, is because there are not the
876 laboratories nor the capacity to do the testing. So, they need us to get up and running so
877 that we can then oversee the analyses that I described earlier that would be needed to
878 make sure the materials are safe for the public.
879

880 Mr. Lentz said that I have kind of a standards/process question. How do you get notified
881 that you should go out and check someone or check a business. Does someone notify
882 you.
883

884 Mr. Sylvester said that the State will actually notify the customer or producers. In your
885 Town, I think Sweet Dirt could be a potential customer. So, the State will say, as of
886 December 31st, you will be required to have certain tests and, if they don't have those
887 tests, they cannot sell their product. So, that will be overseen by the State. We will be
888 required to go out and collect the samples. That is more of an integrity issue. They don't
889 the customer collecting their own sample so the laboratories will be going out, which is
890 kind of nice because we won't have a lot of customers coming in and out of the front
891 door. We don't have the public coming in and out of the front door because we're not
892 selling anything.
893

894 Mr. Olsen said that this appears to be a change in use from medical office space to
895 laboratory, which is the first piece, and in this case, instead of a pathogen it's cannabis, so
896 that, to me, is our first question. I am completely supportive of a non-retail laboratory
897 where it's good-paying technician jobs, good technology, secure. Eliot can certainly use
898 good-paying jobs coming in as opposed to flipping burgers or doughnuts so I think that's
899 a positive. I think the other thing is, and I do understand what Ms. Horner is saying, but I
900 certainly believe that because there is such a long runway to get these things up, you have
901 to kind of have some conditions of licensing and certification so that these folks can pick
902 a place and get geared up, and those would just be natural. They can't operate without
903 certification or a license from the State. So, I don't think we're doing something that's
904 putting the cart in front of the horse, we're allowing business to happen.
905

906 Mr. Lentz, addressing Ms. Horner, said that I think not too long ago we talked about re-
907 writing ordinances and marijuana establishment ordinance was one of them. I believe you
908 said why don't we wait until we try these, let someone come in and start to use the
909 process, and we agreed with you. I think that this is part of it. I think you're seeing it right
910 now. It's a start. I'm in agreement with Mr. Olsen. I think it's a valuable thing. I like the
911 security part of it. I like the checking and oversight. I think it's a good thing for Eliot.
912

913 Mr. Sylvester said that I do think that laboratories do have, generally, chemists or
914 biologists with degrees, some of them are advanced degrees. I think it's a really good
915 thing for Eliot. I think the fact that it's secure, there are not a lot of questions because we
916 aren't producing and we're not selling so we don't have the public around; however,
917 we're still going over the top with security. It's a really good security system that we're

918 putting in place. I'm really excited about this. I've done several start-ups in my career.
919 The business that my wife and I and Cliff Chase own now is a dynamite business and we
920 have longevity, people who were in college when we bought the business that are now
921 running it as managers. And it's the same thing there, with very hi-tech, great quality,
922 educated individuals. We're in the middle of a pandemic and we just gave them all a
923 raise. It was a good thing for them, they deserved it and they earned it.

924
925 Mr. Lentz asked if there were applications available some place.

926
927 Mr. Sylvester said that there will be if this place is approved.

928
929 Ms. Braun said that I know, for the caregivers, they do run background checks on their
930 employees. Do you also perform background checks or does the State perform
931 background checks.

932
933 Mr. Sylvester said that the State requires us all to have a specific ID card that shows we
934 have all been through the background check and that's conducted through the State. No
935 one is allowed to work there unless they have the ID card so everyone goes through the
936 background check. You are allowed in the building if we designate a specific area where
937 you may walk in. If one of the employees wants to walk in with their child, there is an
938 area they could walk in and sit but the majority of the building where cannabis might be
939 you must be, by regulations, 21 years old.

940
941 Ms. Braun asked if those are locked for security purposes or are they open all day long
942 and locked at night.

943
944 Mr. Sylvester said that those doors are locked. You can't get through, all day.

945
946 Ms. Bennett wanted to follow up on Mr. Olsen's comment regarding the change in use
947 piece. In looking at the agenda, this is a preliminary review and that is the first thing we
948 should make a decision on or come to a consensus on. It is an allowed use in the
949 Commercial/Industrial Zone. I am in agreement with Mr. Olsen that this would be a
950 suitable change in use for this site, the building on the site. After we discuss that and, if it
951 passes, we go forward with a formal site plan review.

952
953 Mr. Lentz said that I'm in agreement. After you have done the analysis and this material
954 is neutralized, I think you called it, it goes into drums as hazmat. Where are the drums
955 stored after material is in it. Are they outside. Are they fenced in.

956
957 Mr. Sylvester said that there will be a room that will be locked, and a camera inside that
958 room. Those drums, by law as hazardous material, must be removed within 90 days of the
959 label going on that drum. Even if it's not full, if I put materials in there 90 days ago, I
960 need to have the appropriate company that deals with that come and pick the drum up and
961 take it to a hazardous material dumpsite.

962
963 Mr. Lentz asked if your analysis cover hemp, as well.

964

Mr. Sylvester said yes.

965

966

Mr. Lentz reiterated that I think your package is very thorough, professional, and it's extremely interesting; that I learned a lot reading it.

967

968

969

Mr. Sylvester said my hope, if we get up and running, is that you come visit us. I would like to say the Mr. Galbraith was instrumental in helping us achieve all of our goals that we've been going after.

970

971

972

973

Mr. Lentz asked how the PB wanted to proceed. They were asking for preliminary sketch phase plan review. Are there other things you would like to see them come back with, information you haven't found.

974

975

976

977

Ms. Braun said that I noticed in the packet that it was determined by the CEO, because there are no customers, so to speak, going in and out of the premises, that they are exempt from the sensitive use setback. Is that accurate.

978

979

980

981

Mr. Galbraith said that was correct.

982

983

Mr. Lentz said that I also questioned that.

984

985

Mr. Galbraith said that, as far as 500 feet, we normally measure that from the actual proposed tenant space of marijuana whatever it is. This was sort of like the Dunkin' Donuts but it's set back further. From the aerial photo I sent you, out of the three buildings on this property they are the darkest-roofed building. When I was talking to the CEO about this, she said that this did not require that setback.

986

987

988

989

990

991

Ms. Braun said that that is interesting. I kind of question that and would like to see a little more on that, that they are, in fact, exempt from sensitive use.

992

993

994

Mr. Olsen said that I agree with the CEO's recommendation on that. This is completely different. In fact, I don't know if I even thought about testing when I thought about a marijuana establishment from the way the ordinance is. And I understand that it's touching the same product but it's a completely different thing. It would be like us, if booze had to be tested at bars that were making beer, would we treat that lab the same way we treat the Shipyard Brewery. We wouldn't. They are taking very small samples in a very controlled place to very highly-sophisticated equipment and then disposing of it. That, to me, is a completely different concept regarding that whole 500 feet and the reason why we have that.

995

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1003

1004

Mr. Lentz said that I would agree with you but perhaps Mr. Galbraith can get us some of Ms. Bishop's thinking there, what was her logic, her thought process.

1005

1006

1007

Mr. Galbraith agreed.

1008

1009

1010 Mr. Sylvester said that, when you think about public health, you can now go to a store,
1011 which you couldn't 50 years ago, and pick up almost anything in the store and look at the
1012 food label to tell you what's in it. This is exactly what is going on and why a lot of states
1013 have had a hard time getting, that have passed marijuana laws, up and running; that they
1014 want to make sure it's safe. We are testing pesticides, insecticides, heavy metals,
1015 organics, potency to make sure it's the right potency for the proper use, molds, bacteria,
1016 mycotoxins. These are all things we are doing to make these products safe so it is good
1017 for public health. I just wanted to make sure that everybody knew that this is our purpose.

1018
1019 Ms. Horner said that I was just reading our ordinance and the separation from sensitive
1020 use is only for marijuana stores, which this is not. We did discuss testing facilities as a
1021 different beast, so-to-speak, as Mr. Olsen was saying and I think that's why our
1022 marijuana ordinance just says 'store' and not 'marijuana establishment'.

1023
1024 Mr. Galbraith said that when I talked with Ms. Bishop, she had mentioned the same
1025 thing. I'd actually asked her to write something up for the PB this evening and today just
1026 went pear-shaped like a lot of days. That was the original rationale but I would rather
1027 give you something in writing.

1028
1029 Mr. Billipp said that I just wanted to mention that the sample sizes are very, very small,
1030 on the order of 5 grams per sample.

1031
1032 Mr. Sylvester confirmed that that is less than a teaspoon of material.

1033
1034 Mr. Billipp said that once it's processed, it gets mixed with kitty litter, or something else,
1035 to make it inert or unpalatable for any use, then disposed of. I just wanted to clarify that
1036 we are not talking about large amounts of cannabis.

1037
1038 Mr. Sylvester said that that is correct. You have to remember that when we get a sample,
1039 the store or production facility is required to tell the State how much all the compounds
1040 (metals, mold, pesticides, etc.)...all the analytes we will be testing for will have to come
1041 from that one sample.

1042
1043 Mr. Lentz asked if the sketch plan review complete.

1044
1045 Mr. Olsen said that I'm supportive of the change of use and I'm supportive that this
1046 application is complete.

1047
1048 After some discussion, it was agreed that each piece would be a separate motion.

1049
1050 **Mr. Olsen moved, second by Ms. Horner, that the Planning Board approve the**
1051 **change of use.**

VOTE
5-0
Motion approved

1052
1053
1054
1055

1056 **Mr. Olsen moved, second by Ms. Braun, that the Planning Board finds the sketch**
1057 **plan application complete.**
1058

1059 DISCUSSION:
1060

1061 Ms. Bennett said that there are a few items I would like to see contained in the sketch
1062 plan. I think the applicant did a great job discussing your process and what you're going
1063 to be doing. You've laid out the structure and how the building is going to be, a portion
1064 but there's no scale. We're looking at the land use so make sure that the site plan
1065 adequately marks which building it is so that we can measure all setbacks. This will give
1066 us a very clear schematic of both the site and then what you're doing within your
1067 structure.
1068

1069 Mr. Sylvester said that, with this structure, towards the very end of your package, there is
1070 a presentation and that presentation does have the scale inside the building. Not outside
1071 the building, just inside the building.
1072

1073 Mr. Galbraith asked Ms. Bennett if she was looking for at least a preliminary floor plan
1074 about what interior walls are going to be and things like that.
1075

1076 Ms. Bennett said yes.
1077

1078 Ms. Horner said that that was page 115.
1079

1080 Ms. Bennett reviewed the actual site plan to make sure it met the requirements. As the
1081 electronic scan is not clear and I'm having a problem with legibility. Maybe a clearer
1082 copy would be good because I'm looking at what looks like a survey on page 137 and it's
1083 very difficult to read hardly any of it.
1084

1085 Mr. Galbraith said that there was a survey of this property when this whole project was
1086 being looked at and you have that. One of the reasons I included the aerial photograph
1087 with the application in the staff report was because that survey did not include the
1088 parking areas that are right out in front of those two parallel buildings. We did try to find
1089 the site plan because there are no proposed changes to the exterior of the lot or anything
1090 on the outside of the building. Is that going to suffice or, if I can find a site plan in our
1091 files. I didn't ask Mr. Sylvester to actually produce or have it surveyed of an existing
1092 developed property. I hoped that would meet the PB's requirements.
1093

1094 Ms. Bennett said that, if we don't have it in our files now, we should have it in our files
1095 going forward. It would be really good to clearly state that 'this' is the unit in question,
1096 this is where it's located on the actual site because this is a condominium lot, and here are
1097 the setbacks. Have it reflect what is currently existing.
1098

1099 Mr. Galbraith said okay. We have that capability through the GIS.
1100

1101 Ms. Bennett said that the onus is on the applicant to do that, not on you. You have
1102 enough.

1103 Mr. Billipp said that I think exactly what you are looking for is in the package. It's a site
1104 plan but, if it isn't, we will make sure it's included next time. We'll make it page one.
1105

1106 Mr. Lentz said that included in that site review there is a checklist talking about traffic
1107 and noise and fumes and odor and glare and stormwater and erosion control. All of those
1108 things should have some type of response. Particularly, I would look for something from
1109 the Police and Fire with some kind of a note that they have looked t it. I know that the
1110 Fire Chief will ask for the knox box and that type of thing.
1111

1112 Mr. Galbraith said that there is a knox box being provided but we can certainly add that.
1113

1114 Ms. Horner asked when the company comes that has to pick up the hazardous waste, as
1115 we're calling it, is that a secure process. Do you need a security door for them to use. I'm
1116 not looking for proprietary information but I'm not sure how that would happen.
1117

1118 Mr. Sylvester said, first of all, there will be cameras in the room where the hazardous
1119 material is so, when they come to pick up a drum, there will be a camera there. There is a
1120 camera both inside and outside both exists so that is security. Laboratories are very
1121 meticulous about chain-of-custody and, basically, when the material comes to the end of
1122 chain-of-custody there are documents that these companies are required to have in place.
1123 Mostly from the DOT because they are going to be travelling with these materials. When
1124 we put the materials in the drums, we have to document where it came from, what the lot
1125 number was, and all that is registered with the State. Then, those documents get
1126 transferred to the company that is disposing of it and it goes on their documentation for
1127 the DOT, as well.
1128

1129 Ms. Horner said that I am wondering if it is an armored car or someone in a pickup truck
1130 or a mac truck. Is it a big enough space for that.
1131

1132 Mr. Sylvester said that, if they happen to be hitting all four laboratories in Maine all at
1133 once, there will be a bigger truck. If we're calling and we are getting up on our 90 days,
1134 we need to get a variance or you need to come pick it up, then they'll probably come with
1135 a pickup truck with a liftgate and it's going to have to be secured somehow. Remember,
1136 at this time, the material has already been neutralized so it doesn't have any of the
1137 potency issues.
1138

1139 Ms. Horner asked if he needed a locked dumpster or a locked fence.
1140

1141 Mr. Sylvester said no because it's all inside and that room will be separately locked.
1142 There are keypads to get in for the employees and, then, there's a lock on the door. You
1143 can't just walk into this facility, you have to be let in. If you don't have an ID card, there
1144 has to be documentation that the person came into our facility at 'this' time and she left at
1145 'this' time and her business was piking up the hazardous material. There's actually a
1146

1147 company that is sub-contracted out by the State, called Metric, and they are responsible
1148 for the State for all the documentation used in this.
1149

1150 Mr. Olsen said that I imagine you will be doing that from the back side of the building,
1151 not the front. If I remember right, there is a roadway where you have access to a back
1152 door to your facility. I imagine you would use that.
1153

1154 Mr. Sylvester said that that seems, to me, to be the most convenient. In the laboratories
1155 I've had in the past we don't use the front door for hazardous materials.
1156

1157 Mr. Olsen said that I do a lot of work with hospitals and it is an amazingly-controlled
1158 process when you talk about chain-of-control and how all the couriers are very, very
1159 vetted, as well.
1160

1161 Mr. Sylvester said yes. We currently do a lot of work with different government agencies.
1162 The Navy, we do a lot of work with the Army Corps of Engineers, Hanscom Air Force
1163 Base, West Point. We have the medical waste contract for the Navy Shipyard and that's
1164 exactly what happens. Trucks pull in, they're secured trucks, and it takes an hour just to
1165 fill out all the documentation of what the hospital is handing over to the driver, and this
1166 will work the same way.
1167

1168 DISCUSSION ENDED
1169

VOTE

5-0

Motion approved

1170
1171
1172
1173 This will be placed on the August 18th agenda.
1174

1175 **ITEM 9 – CORRESPONDENCE**
1176

1177 There was no correspondence.
1178

1179 **ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING**
1180

1181 Election of Officers
1182 Public Hearing for Surrey Lane PB20-4
1183 Potential ordinance changes
1184
1185

1186 The next regular Planning Board Meeting is scheduled for August 4, 2020 at 7PM.
1187

1188 **ITEM 11 – ADJOURN**
1189

1190 There was a motion and a second to adjourn the meeting at 9:31 PM.
1191
1192

Town of Eliot
DRAFT REGULAR PLANNING BOARD MEETING MINUTES

July 21, 2020
7:00 PM

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Respectfully submitted,

Ellen Lemire, Recording Secretary

Dennis Lentz, Chair
Date approved: _____

TOWN OF ELIOT, MAINE

PLANNING BOARD NOTICE OF DECISION

CASE #: **PB20-8 - SHORELAND ZONING**

**PERMIT APPLICATION/REPLACEMENT OF
NON-CONFORMING RESIDENTIAL STRUCTURE**

MAP/LOT: **50/19**

DATE OF DECISION: **07-21-2020**

_____, 2020

DRAFT

Charles & Cheryl Tewell
PO Box 628
York Harbor, Maine 03911-0628

Dear Mr. & Mrs. Tewell,

This **Notice of Decision** is to inform you that the Planning Board has acted on your **Shoreland Zoning Permit Application** for the replacement of an existing, non-conforming structure and replacement subsurface wastewater disposal system:

I. APPLICATION DOCUMENTS AND SUPPORTING MATERIAL SUBMITTED FOR THE RECORD:

Submitted for July 7, 2020:

1. Request for Planning Board Action, dated May 18, 2020.
2. Shoreland Zoning Permit Application, dated May 18, 2020.
3. Warranty Deed, Book 17709, Page 153, recorded at the York County Registry of Deeds May 3, 2018.
4. Architectural Plans prepared by Arilda Design, dated May 5, 2020:
 - Sheet A-1, Foundation Plan
 - Sheet A-4, Elevations North and Front
 - Sheet A-5, Elevations South and Waterside
5. Site Plans prepared by Tidewater Engineering & Surveying, dated May 2020:
 - Sheet C1 – Boundary Retracement Survey & Proposed Site Plan.
 - Sheet C2 – Erosion & Sediment Control Plan
6. Existing main dwellings and cabin locations prepared by Landry Surveying, LLC, dated September 2015.
7. Site Plan Review Submissions Checklist, dated May 18, 2020.
8. Abutters List.
9. Project Narrative.
10. Town of Eliot GIS Location Map.
11. FEMA Flood Zone Overlay.
12. Subsurface Wastewater Disposal System Variance Request.
12. Subsurface Wastewater Disposal System Application:
 - Soils Report by Alfred Frick Associates, Inc., dated March 23, 2020.
13. Letter from Ryan McCarthy, P.E., P.L.S., dated May 19, 2020.
14. Memo from David Galbraith, Town Planner, dated July 7, 2020.

Submitted for July 21, 2020:

1. Copy of Shoreland/Request for Planning Board Action Site Review Application and accompanying documents.
2. Memo from David Galbraith, Town Planner, dated July 7, 2020, updated.

FINDINGS OF FACT:

1. The owners of the property are Charles & Cheryl Tewell (mailing address: PO Box 628, York Harbor, Maine 03911).
2. The applicants are: Charles & Cheryl Tewell (mailing address: PO Box 628, York Harbor, Maine 03911).
3. Agent for the applicants is: Tidewater Engineering and Surveying, PLLC (Ryan McCarthy): (mailing address: 89 Route 236, Suite 3, Kittery, Maine 03904).
4. The property is located at 21 Foxbrush Drive, Eliot, ME and is 0.243 acres.
5. Property can be identified as Assessor's Map 50/ Lot 19 and is located in the Suburban Zoning District/Resource Protection and Limited Residential Shoreland Zoning District.
6. The applicant proposes to replace existing non-conforming residential structure further away from the Piscataqua River and replace the subsurface wastewater disposal system.
7. Copies of the application and supporting materials were provided to the Police Chief, Public Works, Fire Department, and Code Enforcement. There were no comments.
8. The Planning Board reviewed the application at the following regular meetings:
 - July 7, 2020
 - July 21, 2020
9. In accordance with §33-130, a public hearing was advertised in the Portsmouth Herald/Seacoast Online on July 10, 2020 and held on July 21, 2020. Abutting land owners were notified via certified mail.
10. One abutter spoke in complete support of this application. Two abutters discussed concerns regarding expansion calculations, safety, and potential damage to their property. All concerns were satisfactorily addressed.
11. The following application fees have been paid by the applicant, in accordance with §1-25:
 - Site Plan Review Application Fee (Shoreland): \$100.
 - Non-conforming structure in Shoreland Overlay \$75.00
 - Public Hearing Fee: \$175.00
12. The Planning Board held a site walk on July 15, 2020, with a follow-up site walk on July 21, 2020.
13. Waiver request action: The Planning Board waived §33-127(12) High Intensity Soils Survey because this is a small site and soils found during test pit drillings coincided with the medium intensity soils survey, which indicates Scantic silt loam-type soil.
14. The Planning Board accepted the application as complete on July 7, 2020.
15. Majority of parcel is within the 75-foot setback from the Piscataqua River. Proposed structure to be located further away from the Piscataqua River to the greatest extent practicable.
16. §44-32 was updated at Town Meeting in November 2018 to be consistent with the State of Maine Chapter 1000 Shoreland Zoning regulations, which removed 'volume' as part of the 30% expansion rule for non-conforming structures.
17. Proposed structure location to be moved 25 feet from bluff and entirely within side setbacks, making it more conforming.
18. The existing front deck, which has no recorded Town permit, is not used in the expansion calculations.
19. The Planning Board determined that the existing timber steps and brick patio were part of the pad to gain access to the water and would be included in the expansion calculations, as was granted to a prior applicant for this property.
20. Existing structures are allowed to expand by 30% under §44-32(c)(1)C.1:
 - a. 30% expansion equals 1,085 square feet or 26.7%.
 - b. Shoreland Lot Coverage: reduced from 20.3% to 20%.
 - c. Building Coverage: Maximum is 15% - existing is 7.9% and proposed is 10%.
 - d. Shoreland Structure Height: existing is 20.65 feet and proposed is 20.5 feet.
 - e. Septic System located where proposed structure to be located. New state-of-the-art BioBarrier System with pre-treatment proposed that allows for a smaller leach field footprint. Where new septic system is located, existing tree to be removed and replaced closer to the river.
 - f. Parcel will retain the existing private well.
 - g. Parking area (driveway) reconfigured from 1,320 square feet to 1,062 square feet.
 - h. Existing deck structure was not used as part of the expansion calculation.
21. Applicant filed for a ME DEP NRPA Permit. The Permit was granted July 13, 2020 and a copy submitted to the Planning Department.

22. Existing house, to include the basement, will be removed and the bluff stabilized with riprap below the FEMA-designated flood elevation and re-vegetated above that level.
23. The driveway will be gravel.
24. The existing property is accessed through a right-of-way agreement established in 1931 and is 400+ feet from a public road (River Road). As a result, it was determined that this property does not have the proper street frontage that would define a front yard for this lot, as determined by the Code Enforcement Officer and Planning Department.

CONCLUSIONS:

1. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and Shoreland Zoning Permit Application have or will be met.
2. Based on the information presented by the applicant and in accordance with Sec. 44-44, the Planning Board finds that the proposed use:
 - a. Will maintain safe and healthful conditions;
 - b. Will not result in water pollution, erosion, or sedimentation to surface waters;
 - c. Will adequately provide for the disposal of all wastewater;
 - d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat;
 - e. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
 - f. Will protect archaeological and historic resources as designated in the comprehensive plan;
 - g. Will avoid problems associated with floodplain development and use; and
 - h. Is in conformance with the provisions of section 44-35, land use standards.
3. The Planning Board determined that this application meets the requirements of §44-32 to the greatest extent practicable.

DECISION:

1. Based on the above facts and conclusions, on **July 21, 2020**, the Planning Board voted to approve your application to replace existing non-conforming residential structure and re-build the residential structure further away from the Piscataqua River and replace the subsurface wastewater disposal system.

CONDITIONS OF APPROVAL:

The applicant must comply with all requirements of the Town of Eliot Land Use Ordinances. In addition, to further promote the purposes of the (Eliot Zoning Ordinances), the Planning Board has voted to impose the following conditions on the approval of this application:

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.

PERMITS:

The Planning Board has approved your application and the Code Enforcement Officer is authorized to grant you the necessary Permits or Certificates of Occupancy, as appropriate. It is your responsibility to apply for these permits. In exercising this approval, you must remain in compliance with all the conditions of approval set forth by the Planning Board, as well as all other Eliot, State, and Federal regulations and laws. Be aware, however, that Site Plan approvals (including home businesses) that are granted by the Eliot Planning Board have expiration provisions specified in Section 33-59 of the Town of Eliot Code of Ordinances, which states:

The approval of a site plan review under chapter 33, article III shall expire if the work or change involved does not commence within two years of the date the planning board makes its determination of approval under section 33-131, or if the work or change is not substantially completed within three years after such date.

The holder of an approved permit should take care to ensure that the approval granted on July 21, 2020 does not expire prior to commencement of work or change.

APPEALS:

This decision can be appealed to the Board of Appeals within 30 days after July 21, 2020 by an aggrieved person or party as defined in Sec. 1-2 and Sec. 45-50(b) of the Eliot Zoning Ordinance. Computation of time shall be in accordance with general provisions of the Town of Eliot Municipal Code of Ordinances, section 1-2.

Sincerely,

Dennis Lentz, Chair

This letter reviewed and approved by the Planning Board on _____, 2020.

- CC: Steve Robinson, Public Works Director
- Elliott Moya, Police Chief
- Jay Muzeroll, Fire Chief
- Martine Painchaud, Tax Assessor
- Shelly Bishop, Code Enforcement Officer
- Ryan McCarthy, Tidewater Engineering and Surveying, PLLC

CASE NO. _____

**TOWN OF ELIOT
PLANNING BOARD
SUBDIVISION APPLICATION**

This application shall conform in all respects to the Land Subdivision Standards of Chapter 41 of the Planning Board of the Town of Eliot code of ordinances. Ten (10) copies of application and sketch plan shall be submitted.

- Application for Sketch plan
- Preliminary plan for major subdivision
- Final plan for minor subdivision

1. Proposed name of subdivision LAMS, LLC

2. Location of property Surrey Lane

3. Tax Map 37 Lot # 22 Size (acres) 9.56

4. Zoning District (circle one) Commercial/Industrial ~~Rural~~ Suburban ~~Village~~

5. Name of record owner LAMS, LLC
Mailing address 6 York Pond Road, York, ME 03909 Phone # _____

6. Name of applicant LAMS, LLC
Mailing address 6 York Pond Road, York, ME 03909 Phone # 207 363 4532
If corporation, name of agent Michael Cuomo, Manager

7. A complete statement of any easements relating to the property is attached hereto
(if none, so state) Subject to easement and right-of-way as shown on survey

8. Deed or deeds recorded at County Registry of Deeds
Date 4 September 2019 Book # 18037 Page # 642
Date _____ Book # _____ Page # _____
Date _____ Book # _____ Page # _____

CASE NO. _____

9. Do the owner and/or applicant have an interest in an abutting property as stated on the attached sheet? No
10. Name, address and license # of Engineer, Land Surveyor, Architect, or Planner
Northeasterly Surveying, 191 State Road, Kittery, 03904
11. Preliminary plan covers Minor subdivision creating 4 residential lots
12. If applicable, has the owner and/or applicant been approved for a MaineDOT driveway permit for the installation, physical change or change of use a driveway located on a State highway? not applicable
13. Does owner propose to submit Final Subdivision Plan to cover the entire Preliminary Plan, or to file same in sections? Entire
If so, how many? _____
14. Does the preliminary plan cover the entire contiguous holdings of the applicant?
Yes
15. Entrances onto existing or proposed collector streets do not exceed a frequency of one per 400' of street frontage? Yes No No new entrance proposed
16. Entrances onto existing or proposed arterial streets do not exceed a frequency of one per 1000' of street frontage? Yes No No new entrance proposed
17. A distance of at least 200' is maintained between centerlines of offset intersecting streets? Yes No Not applicable
18. Does the applicant propose to dedicate to the public all streets, highways and parks shown on the plan? no

CASE NO. _____

19. Give the number of acres which the applicant proposes to dedicate to public to use for park, playground and/or other purposes 0

20. If any waivers of requirements are to be requested, list them on a separate sheet, referencing the Sections in Chapter 41 and give reasons why such requirements should be waived . To be determined

21. Is the property located in a flood zone? No

If yes, please complete the attached Flood Hazard Development Application and return it with your application.

Subdivider shall submit fees as specified in Sections 1-25 in the amount of \$200/lot prior to the second meeting with the Planning Board. Fees are not refundable.

Applicant signature Manager, LAMS, LLC Date 28 January 2019

Owner signature Manager, LAMS, LLC Date 28 January 2019

Planning Assistant _____ Date _____

FEES:	
Major subdivision	\$200 per lot
Minor subdivision	\$200 per lot

CASE NO. _____

**Town of Eliot Planning Board
CHECKLIST FOR A SUBDIVISION APPLICATION
(All items will be reviewed unless otherwise noted or NA)**

- The owner of the property is _____
- The applicant is _____ who has demonstrated a legal interest in the property by providing: _____
- Agents for the applicant are: _____
- The property is located at _____, in the _____ zoning district, identified as Assessor's Map __, Lot __, and containing __ acres
- Application is for establishment of (new) (modification to existing) Major/Minor Subdivision.
- Existing Subdivision was approved by the Planning Board on _____.
- The name of the proposed subdivision is _____ and it will contain _____ lots which range in size from _____ acres to _____ acres and are shown on Plan No. _____, dated _____
- Easements and/or Rights of Way affected by or within the proposed subdivision are as follows:
 - a. _____.
 - b. _____.
 - c. _____.
- Entrances onto existing or proposed collector streets do not exceed a frequency of one per 400' of street frontage? Entrances onto existing or proposed arterial streets do not exceed a frequency of one per 1000' of street frontage?
- Owner/applicant has been approved for a driveway permit from MaineDOT for the installation, change or change of use on any State highway, if applicable?
- Lots within the proposed Subdivision will have (private) (public) water supply and (private) (public) (private central) sewage disposal systems.
- Sketch Plan was accepted by the Planning Board on _____
- Preliminary Plan approved by Planning Board on _____
- A Site visit was conducted on _____
- A public hearing was held on _____
- _____ abutters spoke or submitted written correspondence at the Public Hearing or submitted written correspondence by mail.

CASE NO. _____

- _____ members of the public spoke or submitted written correspondence at the Public Hearing or submitted written correspondence by mail.
- The application was discussed by the Planning Board on _____, _____, _____, _____.
- Plan for minimizing surface water drainage (Section 41-213) submitted: (Yes) (No) (Waiver requested).
- Soil Erosion and Sediment Control Plan (Section 41-214) submitted: (Yes) (No) (Waiver requested).
- (Optional for Minor Subdivision)* Statement or plan showing effect upon air quality (Section 41-212) submitted: (Yes) (No) (Waiver requested).
- (Optional for Minor Subdivision)* Soils Report and High Intensity Soils Survey [Section 41-150(11)] submitted: (Yes) (No) (Waiver requested).
- (Optional for Minor Subdivision)* Location of all natural features or site elements to be preserved (Section 41-215) identified: (Yes) (No) (Waiver requested).
- (Optional for Minor Subdivision)* Statement or plan concerning historical sites and land use patterns (Section 41-216) submitted: (Yes) (No) (Waiver requested).
- Means of providing water supply to the proposed subdivision (Section 41-217) identified: (Yes) (No) (Waiver requested).
- Sanitary sewerage system (Section 41-218) identified: (Yes) (No) (Waiver requested).
- (Optional for Minor Subdivision)* Community services and impact statement (Section 41-220) submitted: (Yes) (No) (Waiver requested).
- (Optional for Minor Subdivision)* Traffic congestion and safety plan (Section 41-221) submitted: (Yes) (No) (Waiver requested).
- (Optional for Minor Subdivision)* Public health and safety statement (Section 41-222) submitted: (Yes) (No) (Waiver requested).
- Compliance with Federal, State, and Local land use laws (Section 41-223) demonstrated: (Yes) (No).
- (Optional for Minor Subdivision)* Estimated Progress schedule [Section 41-150(21)] submitted: (Yes) (No) (Waiver requested).
- Adequate financing (Section 41-224) demonstrated: (Yes) (No) (Waiver requested).
- (Optional for Minor Subdivision)* Water Department approval provided for public water service [Section 41-174 (1)]
- (Optional for Minor Subdivision)* State of Maine, Department of Human Services approval for central water supply system provided [Section 41-174 (2)]

CASE NO. _____

- Soil Scientist approval for individual wells provided [Section 41-174 (3)]: (Yes) (No)
- Proposed subdivision Plan reviewed by the Department of Environmental Protection: (Yes) (No) (Waiver requested).
- Proposed subdivision Plan reviewed by the Department of the Army, Corps of Engineers: (Yes) (No) (Waiver requested).
- Proposed subdivision Plan reviewed by the York County Soil and Water Conservation District: (Yes) (No) (Waiver requested)
- Other _____

OBITUARIES & NEWS

Anthony L. Proia

KITTERY POINT, Maine — Anthony L. Proia, 77, died Sunday, July 12, 2020 at Durgin Plaza in Kittery, Maine. Tony was born in Middletown, N.Y. to Albert and Ruth (Moore-honse) Proia and attended Middletown schools.

Tony served his country in the United States Air Force and in 1963 he and Sandra (Barton) Proia became husband and wife. He received a degree in Physical Therapy from the University of Connecticut in 1969. After initial employment at Yale University, Tony took a position as a sports medicine specialist at the Portsmouth Rehabilitation Center in 1973 and he and Sandra and their young son, Albert, moved to Kittery Point.

In addition to the Rehab Center, Tony also served as the Director of Physical Therapy for Easter Seals and, later, the Director of Physical Therapy at the Portsmouth Naval Shipyard.

Tony, always an outdoor enthusiast, worked at the junction, a community resource for troubled adolescents in Portsmouth, N.H., where he led the young people on challenging hiking, canoeing and other outings.

In another incarnation, Tony entered the landscaping field, operating excavating equipment with finesse and finding special joy in building dry-laid

stone walls. Throughout his youth and into adulthood, Tony was an accomplished athlete. As a student he was a quarterback in high school and a star pitcher in junior college (he pitched two no-hitters). As an adult he loved hiding

4,000 footers and kayaking river rapids in the White Mountains with his close friend, Mike Badger. He and Sandra were avid cyclists and they cherished their yearly vacations to Nantucket during Sandra's April school break.

Tony had an infectious exuberance for life, for the natural world, the mountains and rivers, the solitude of the woods and the rain on the roof. He loved his family, his many friends and hard work. He loved music from the blues to soul to classical and show tunes.

Tony is survived by Sandra, his loving companion of 57 years; his beloved son, Albert, of Wellfleet, Mass.; sister-in-law Judith Barton of Arlington, Va. (wife of his brother-in-law Ronald W. Barton, who predeceased him) and nieces, Elizabeth Barton and Jennifer Barton.

SERVICES: A celebration of Tony's life will be held at a later date. Online condolences may be made by visiting www.jspelkeyfuneralhome.com.

G. Clayton Hind

ELIOT, Maine — G. Clayton Hind, Jr., 95, went home to be with his lord on Monday, July 20, 2020.

He is survived by his wife of 72 years, Irya, and beloved children, grandchildren and great-grandchildren; daughter Susan Soule-Hinds, son John Hinds, grandchildren Lindsay Pacheco (Rich) and Andrew Schwartz-Hinds (Sarina) and great-grandchildren Dana Pacheco, Anthony Pacheco, Miriam Pacheco and Lydia Pacheco. He is survived by loving brother and sister Ronnie Hinds and his wife Charlotte and Betty Simpson (Paul) and Helen and Timmons (Rod).

Born in Portland, Maine, he moved to Eliot, Maine, where he entered high school moving just down the street from the girl that would become the love of his life. After completing high school, he entered the US Navy and served his time on PT boats and destroyers. Upon separation from the Navy he went to Oklahoma for training as an aircraft mechanic.

However, after completing his training and prior to beginning that career he returned home to help his family and began a 35 year career at the Portsmouth Naval Shipyard. He started his career as a sheet metal worker and his final position was as a Reactor Plant Supervisor. On October 16, 1948, he married his high school sweetheart, Irya Lawson (Hinds). He served as an Eliot selectman many years and served on the board of the Mt Pleasant Cemetery. Additionally,

he was a member of the Masonic Lodge. He and Irya built a summer house on Mousan Lake where he loved to spend his summers with family and friends. Every summer he would move the family up to the lake and commute to and from work on weekends he would often go out fishing early in the morning before the lake became busy with everyone else.

He was an avid hunter, often hunting with his son, brother-in-law Clint Phinney, and nephew Wesley Phinney in the woods around Mousan Lake. Additionally, for many years he would journey up to northern Maine to hunt for a week with several of his friends.

After he retired, he and his wife enjoyed traveling to numerous places. They took several cruises one through the Panama Canal and another into the Florida of Alaska. In addition to the cruises, they travelled to many places across the US and Hawaii, Germany, and a tour of Europe with several of their friends.

SERVICES: A memorial service will be held at J.S. Pelkey and Son Funeral Home, 125 Old Post Rd., Kittery Maine on Saturday, July 25 at 11 a.m., followed by a committal with Military Honors at Mt Pleasant Cemetery in Eliot, Maine. Care for the Hinds family has been entrusted to the J.S. Pelkey and Son Funeral Home. Online condolences may be made by visiting www.jspelkeyfuneralhome.com.

Robert L. Alessi

KITTERY, Maine — Robert L. Alessi, 85, passed away in the comfort of his home with his family by his side on Sunday, July 12, 2020.

A lifelong Kittery resident, Bob was born to Nazareno and Gertrude (Shea) Alessi on August 9, 1934. He married his soulmate, Joan M. Alessi, the two celebrated 66 years of marriage. Bob built a successful career with National Gyssum, working his way from an entry level position at 19 years old to finally retiring as Plant Manager in Portsmouth, N.H. He was a longtime member and former President of the Kittery Lions Club, and devoted to his church, St. John's Episcopal in Portsmouth, N.H.

Bob was dedicated to his local community; from the Kittery Volunteer Fire Department, to selling Christmas tree's each December. He could be found behind the kitchen counter at pancake breakfasts, or at the church thrift shop.

Bob and Joan shared a special place together, their camp, "Linger Longer" in

Lincoln, Maine. Where the entire family would make memories together. Whether it be out on the water, in the woods hunting, ice-fishing, or simply lakeside enjoying a spectacular sunset.

Predeceased by his wife, Joan M. Alessi and his sister-in-law Doris L. Finnigan. Bob leaves behind; his sister Gloria and husband Forrest Young, his brother David and wife Joann Alessi, his sister-in-law Nancy White, his two children: Cheryl Gonzalez and Robert J. Alessi, four grandchildren; and six great-grandchildren.

SERVICES: A delayed celebration of life will be announced by the family at a later date. In lieu of flowers, memorial donations can be made to: The Kittery Lions Club; mailing address: Kittery Lions, P.O. Box 104, Kittery, ME 03904. To leave online condolences for the Alessi family, please visit www.jspelkeyfuneralhome.com. Care of the Alessi Family has been entrusted to J. S. Pelkey and Son Funeral Home in Kittery.

Rita G. Rozek

PORTSMOUTH — Rita G. Rozek, 84, passed away Thursday, July 16, 2020 from Parkinson's Disease at the Edgewood Centre in Portsmouth.

Born January 11, 1936 in Williamstown, Vermont, she graduated from Barre High School and the Jeanne Mance School of Nursing. She was associated with Bishop DeGoesbriand Hospital, a teaching hospital of the University of Vermont School of Medicine, where she was neurosurgery charge nurse. There she met her husband, Dick, who was studying at UVM at the college of medicine. She also served at Floating Hospital for Children in Boston.

They moved to Portsmouth, Rita employed at Portsmouth Hospital and Dick in broadcasting. Taking time off to raise their family, Rita substituted for area school nurses and volunteered as board member of the Portsmouth Hospital Guild and Area Homemakers. She involved herself in civic issues and was instrumental in having stop signs and speed limit signs erected in Elwyn Park, where they lived, so that children would be safe. She was proud of convincing city and school officials to continue kindergarten at Dondoro School when funding threatened to eliminate it.

Rita's clear mission caring for people and was blessed with an intuitive understanding of patients, always seeing the whole person. She was much loved by her young patients on the teen/adolescent unit at Portsmouth Pavilion and was deeply invested in their well-being, caring them as if they were her own children.

At age 84, Rita was

awarded her Bachelor of Science in Behavioral Science from New England College and worked at Great Bay Services in Newington, the first New Hampshire organization of its kind dedicated to helping special needs individuals. For Rita it was about people and their abilities, not their disabilities. She thought she was retiring twice, but continued to serve in several hospitals, focusing in neurology and psychiatry.

Rita deeply loved her family and is remembered for creating an nurturing home filled with warmth, beautiful meals, joyful celebrations, and guiding love. Rita had many dear friends and cherished the special times they shared together over her years.

Rita is survived by her husband of 57 years, Dick; her four beloved children, Tamara, Rick, Peter (Lauri), and Kerri; grandchildren Kylie Grant and Rhiannwen Watkins, and Cameron, Matthew (Kateryna) and Nicholas Sowers; great-grandson Leon Sowers; sister-in-law Ann Gregoire; many nieces, nephews, and cousins. Rita was predeceased by her parents, Hermenegilde and Rose Gregoire of Vermont, and brothers, Roland Gregoire of Florida, and Leonal Gregoire and his wife Madeleine of Barre, Vermont.

SERVICES: A private committal service will be held for immediate family, a memorial service for family and friends arranged at a later date. Remembrances and donations may be made in Rita's memory to St. John's Episcopal Church/Orphan Pavilion or Music/Comm Fund, Chapel Street, Portsmouth, N.H.

IN BRIEF

US signs contract with Pfizer for COVID-19 vaccine doses

WASHINGTON — The Trump administration will pay Pfizer nearly \$2 billion for a December delivery of 100 million doses of COVID-19 vaccine the pharmaceutical company is developing. Health and Human Services Secretary Alex Azar announced

Wednesday.

The U.S. could buy another 500 million doses under the agreement, Azar said.

"Now those would, of course, have to be safe and effective" and approved by the Food and Drug Administration, Azar said during an appearance on Fox News.

Pfizer Inc. and BioNTech SE announced separately that the agreement is with

HHS and the Defense Department for a vaccine candidate the companies are developing jointly. It is the latest in a series of similar agreements with other vaccine companies.

The agreement is part of President Donald Trump's Operation Warp Speed vaccine program, under which multiple COVID-19 vaccines are being developed simultaneously. The program aims to deliver 300 million doses of a safe and effective COVID-19 vaccine by January 2021.

Under the initiative, the government will speed development and buy vaccines — before they are deemed safe and effective — so that the medication can be in hand and quickly distributed once

the FDA approves or authorizes its emergency use after clinical trials.

Pfizer and BioNTech said the U.S. will pay \$1.95 billion upon receipt of the first 100 million doses it produces, following FDA authorization or approval.

Azar said the contract brings to five the number of potential coronavirus vaccines that are under development with U.S. funding. Nearly two dozen are in various stages of human testing around the world, with several entering final test to prove if they really work.

The Associated Press

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Legal Notice
PUBLIC HEARING
TOWN OF NORTH HAMPTON
Planning Board
Tuesday, August 4, 2020 at 6:00pm
NO PHYSICAL LOCATION FOR MEETING
MEETING TO BE ACCESSIBLE THROUGH ELECTRONIC MEANS ONLY
Case #2017 — Applicant: Auger Building Company — Ben Auger, 255 Portsmouth Avenue, Greenland, NH 03840. The Applicant requests a Conditional Use Permit for construction of a pool and deck in Wetlands Conservation District border area. Property Owners: Michael A. Falzone and Laura J. Harper Falzone, 9 Danvers Image Lane, North Hampton, NH 03862; Property Location: 8 Dancer's Image Lane, North Hampton, NH 03862; M/L: 007-000; Zoning District: R-2, Medium Density District.
Case #2017 — Applicant: Jeffrey Pilibosian, 38 Pine Road, North Hampton, NH 03862. The Applicant requests a Conditional Use Permit to allow placement of a shed within the accessory structure setbacks. Property Owners: Jeffrey and Heather Pilibosian, 38 Pine Road, North Hampton, NH 03862; Property Location: 38 Pine Road, North Hampton, NH 03862; M/L: 007-001-000; Zoning District: R-1, High Density District.
**IMPORTANT NOTICE: Per the authority granted by State of New Hampshire Executive Orders, there will be no physical location for the meeting. The public will be able to view and listen to the meeting on Cable Channel 22 or as posted on Meeting Video - Town Hall Streams link accessed through home page of town web site at www.townofnorthhampton-nh.gov. If the public has a problem accessing the meeting at the scheduled time, please contact the Planning Administrator by emailing real@northhampton-nh.gov or calling 603-758-1447. For application information, please contact the Planning and Zoning office at real@northhampton-nh.gov or 603-964-8950, Monday — Thursday 7:00am to 4:00pm, Friday 8:00am to 12:00pm.
Respectfully submitted,
Timothy J. Harned
Chair

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York, ME 03999 • (207) 363-6373 • ME Lic. AU1694

LEGAL NOTICE
PUBLIC HEARING NOTICE
AUTHORITY: ELIOT, MAINE PLANNING BOARD
PLACE: ELIOT TOWN HALL
1333 STATE ROAD, ELIOT, ME 03903
DATE OF HEARING: TUESDAY, AUGUST 4, 2020
TIME: 7:00 PM
Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, August 4, 2020 at 7:00 PM for the following application:
• Surray Lane (Map 37 Lot 22 #P820-4 Four (4) Lot Residential Subdivision
• Applicant: LAMS, LLC
• Owner: LAMS, LLC
Interested persons may be heard and written communication received regarding this application at the hearing. The application is on file and available for review in the Planning Office at Eliot Town Hall, 1333 State Road, Eliot, ME 03903.

Please recycle this newspaper

To whom it may concern,

I am writing in regard to questions and/or concerns that I have with the proposed Four Lot Residential Subdivision #PB20-4 located on Surrey Lane.

First, I'd like to preface my concerns/questions with my opinion regarding this proposal and concerns that I have regarding the property owners' intentions. As far as this proposal is concerned, I do not want to be an adversary to Mr. Cuomo's or LAMS, LLC's prosperity or the approval of his proposal should it not impact me materially. In that same regard I do not deserve to be materially harmed by Mr. Cuomo or LAMS, LLC's project unjustly. I am personally concerned that Mr. Cuomo's project has the potential to negatively impact me materially both in the short and long term.

My comments, concerns or questions are as follows:

1. On the northwest side of my property there is an opening to a drainage pipe used for perimeter drainage and gutter drainage around my home. The opening to this drain is on or very close to my abutter and drains on to my abutter's property. I believe that this condition is covered under a prescriptive easement but at this time in an effort to not materially harm me regarding future litigation I am requesting that the planning board require that an appropriate easement be created for this existing condition. Mr. Cuomo has already stated that he was doing this, but I have no reference to this in his proposal.
2. I am very concerned with both short- and long-term impacts that this project will have on the right of way/private road.
 - a. The things that I believe will negatively impact me materially are:
 - i. In the short-term: Years of construction vehicles and heavy equipment utilizing the road, loggers and other contractors damaging the road and additionally an uptick in real estate related traffic will negatively impact me. This has already occurred during logging operations. Excavators have used the road to travel up and down the road, during logging operations. I witnessed full length trees being dragged across the road by skidders. The damage that occurred by this included material removal and large debris was not repaired by LAMS LLC or Mr. Cuomo it was corrected by me and Mr. Roy (24 Surrey). Also, being the current last driveway on the private road My driveway and lawn has become turn around and parking area for loggers and surveyors. My driveway, at least the paved portion, is in rough shape, I plan to replace it and am concerned that it will be damaged by careless heavy equipment operators. I also have young children and am concerned that a lack of regard for children playing could cause them harm.
 - ii. In the long-term I am concerned that if this project requires no road upgrades, I will be significantly materially harmed through the road maintenance agreement RMA. Mr. Cuomo has stated that he will not be making upgrades to the road and that it will be taken care of under the RMA. The RMA was enacted between two parties, father and son that shared road responsibilities, as required by the mortgagor at the time. I understand that the interpretation of the RMA is that it carries over and after subdivision, I disagree and believe a new RMA should be created. I understand that once these properties are actually residential homes, we will all need to amicably maintain the road. But, in the short term, the use of said road will experience significant wear and tear specifically for the benefit/prosperity of Mr. Cuomo and LAMS LLC. This, in my opinion, does not meet the intent or spirit of a residential RMA. I am requesting that

the planning board through building codes, town ordinances or other laws or regulations require that Mr. Cuomo and LAMS LLC ensure that the road will be upgraded to suit safe travel for the proposed addition of 4 residential properties including adding material similarly to his proposed hammer head design.

- iii. In its current state the road does not have much of a crown. Based on the substantial change in forestry I have observed a significant amount of change to the drainage and water flow across the road during heavy water creating storms. As lots are developed, I see a significant potential for this become more of an issue especially when homeowners begin to "beautify" their lots subsequently sequestering or altering wetlands. I am requesting that based on this significant change Mr. Cuomo and LAMS LLC crown the road based on these changes to a required specification that will preserve the integrity of the road for an appropriate amount of time into the future less the expected minor but regular maintenance.
3. There have been discussions of Mr. Cuomo/LAMS LLC creating a Homeowner's Association (HOA) and that existing properties will be required to be included in said HOA. There is legal precedence contrary to this. I expect significant material harm from both Mr. Cuomo/LAMS LLC and the Town of Eliot should I be required to hire legal counsel to civilly litigate such an adverse action. I am requesting that this proposal clearly delineate that an HOA will not be created for any parties on Surrey Lane.
4. I believe this proposal needs to address a potential significant inequity that will be created with the RMA in regard to property owners and voting/road maintenance costs. If the subdivision is approved Mr. Cuomo will affectively own 4 out of the 6 lots on Surrey Lane. To my and Mr. Roy's determinant it could be interpreted that Mr. Cuomo/LAMS LLC could have 4 votes out of 6 for any road maintenance related issues. To the contrary and his detriment, it could also be interpreted that Mr. Cuomo should be liable for 2/3 of the road maintenance costs. This is something that needs to be clarified to be fair and equitable to all parties.
5. I am concerned that the town of Eliot's beauty buffer ordinance was not followed when Mr. Cuomo clear cut his lots. I am asking to please have these restored appropriately.

Again, I want Mr. Cuomo and LAMS LLC to prosper from this proposal. I want to ensure that I am materially protected, while I will always show everyone, I encounter respect, I do not trust that I will not be materially harmed without said protections in place. Based on my interactions with Mr. Cuomo I believe that he is a businessman and in many ways is not considering the impact that his actions will have on his properties abutter's. I am asking the Planning Board to please seriously consider this when examining the proposal. My family is actively and heavily involved in the Eliot and Marshwood Community. My wife grew up here, my 3 young children are being raised here and I am currently the volunteer President of Marshwood Youth Lacrosse a youth sports program that serves upwards of 160 families in our community. We are invested in Eliot; we want to see healthy growth and prosperity here. We also want our community members protected from material harm. Please allow Mr. Cuomo to be afforded the opportunity to complete his project with my concerns appropriately address.

Thank you,



Craig Estes
29 Surrey Lane