

ITEM 1 - ROLL CALL

Present: Christine Bennett – Chair, Carmela Braun – Vice Chair, Suzanne O'Connor – Secretary, Jeff Leathe (Zoom – in late), Paul Shiner, and Jim Latter - Alternate (Zoom).

Also Present: Jeff Brubaker, Town Planner.

Voting members: Christine Bennett, Carmela Braun, Suzanne O'Connor, Paul Shiner, and Jim Latter (appointed).

NOTE: Mr. Leathe has a conflict and will be present later in the meeting. The Chair appointed Mr. Latter as a voting member for tonight's meeting.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION

There was no public input.

ITEM 6 – NOTICE OF DECISION

There were no Notices.

ITEM 7 – PUBLIC HEARING

A. 857 Main Street (Map 10/Lot 2), PB23-2: Site Plan Amendment/Review and Shoreland Zoning Permit Application – Boatyard Expansion.

Received: January 25, 2023

1st Heard: March 7, 2023 (sketch plan review)

2nd Heard: July 25, 2023 (site plan review/shoreland review/completeness)

3rd Heard: August 15, 2023 (cont'd review/approval)

Public Hearing: August 15, 2023

Site Walk: March 28, 2023

Approval: August 15, 2023

Mr. (Geoff) Aleva, PE (Civil Consultants), Mr. (Tom) Allen (Owner/General Manager/Safe Harbor), and Mr. (Brett) Patten (General Contractor/H.L. Patten) were present for this application.

6:05 PM Public Hearing opened.

Mr. Brubaker said that this project involves the demolition of a few buildings currently existing, along with the construction of a new, large metal building for the uses that are current on the site. The application was deemed complete on July 25th and that included a high intensity soil survey waiver. The plan now shows solar panels on the roof and translucent panels on the north wall of the building for interior natural light. Other than that, there are no openings or large doors on that north side of the building, which is the side facing the Clark Road properties, except for a few egress doors for emergency egress. Those will have motion sensor lighting so those lights will be off most of the time. With stormwater, there's no changes. I just did want to note that in your motion templates there is a pretty standard condition for developments of this size for a post-construction stormwater maintenance agreement to be completed before construction is finished. Between the last meeting and this one I did have one question from an abutter on Clark Road (Mr. Lamberti) and it involves what the height of the retaining wall would be. I know that the detail and the site plan set says that the height varied. So, perhaps the applicant's representative could give more information of that as well as more information about the proposed native vegetation behind it. Certainly, if the PB wants to hear from Mr. Lamberti, he's on Zoom. I did come across, in Comp Plan update-related work, and old DEP listing about a proposed underground fuel tank on the property but Mr. Allen and Mr. Aleva got back to me to confirm that was proposed and never actually built; that it wasn't approved by the owners. There is more in my staff report. My recommendation is approval with conditions.

Mr. Aleva said that the project continues to be the same. It's an update to the facility where we're going to eliminate a couple of the buildings that are non-conforming wood-frame structures, combine that into a larger addition to be able to move operations under cover to have that be better weather-protected, reduce noise on abutting properties. The, the other impact of the property is to really take care, make some site improvements, address drainage concerns, look at areas that are gravel pavement now, convert that into bituminous pavement for easier access, less sediment transfer, less stormwater potential for sediment getting down into the river, updating utilities involved with the project, new water and sewer. The new buildings will be sprinkled for fire protection. We can address other questions – that area down by the water that's going to be used for additional work area. The retaining wall height varies. Where you approach the sides, it's a low wall. At the highest, it's going to be 12½ feet on the back side. What we are proposing, and indicate on our plan for native plantings, for that disturbed area is that there are some invasive species in there, now, and we'll do what we can to get rid of that. Then, the intent is to have it be tall grasses. Most of that area is low groundcover in there currently. We would do some tall grasses, some shrubs, and let that come back up. They will be all native plants. We are looking at an overall improvement in the property with these site updates, building updates, that will address stormwater and combine and reduce noise for moving operations inside where we can.

Mr. (Leonard) Lamberti, Gerrys Lane, asked where the highest measurement of the retaining wall is taken from. There is a slope that starts at a plateau area then goes down to the water area where there is a current work space. Is the 12½ feet taken from the elevation of the work space. Is it taken at some point up the hill.

Mr. Aleva asked Mr. Brubaker to share Sheet L-2 showing the retaining wall. The light grey shade is the existing paved area. The darker grey is the section of the expansion of the work area down along the river. What we need to do is to be able to cut into the slope to make that area work. So, we've got a situation where, as you approach into the new work area, the retaining wall is low and, then, as you get to the back end of the area, the back longer section of wall, that wall height is going to range from on the left-hand side where it says London Block Retaining Wall at about 12½ feet and going along the length to 10 ½ feet along the right-hand side. The plan indicates the top of the wall and bottom of the wall and that height is measured from the paved surface to the top of the concrete block. Then, the land will be tapered back at a natural grade to match existing and then re-planted back behind that side.

Mr. Lamberti said that, on the map we are looking at, we don't see the large storage facility but there's a large storage facility, then there's a flat area. Then, there's the beginning of that hill and there are several evergreens now on the plateau area. Where would they be on that map; that I'm just trying to get a sense of scale.

Mr. Aleva said that those evergreens will stay. Mr. Brubaker pointed to the area on the plan where the evergreens are located. The bubbled line indicates the area of tree growth section along the slope.

Mr. Lamberti said that I can see that. My concern is how my view may be affected by the expansion of the work area and the construction of the retaining wall. It seems to me that it won't be impacted by what you're proposing as best as I can determine.

Mr. Aleva said that it should not.

Mr. Lamberti said that that was helpful. Thank you very much.

There were no other public comments.

6:17 PM Public Hearing closed.

Ms. Bennett said that we have an updated Planner's synopsis review of this application. Are there any questions raised in this public hearing that the PB would like to follow up on with the applicant.

Mr. Shiner said thank you very much for the elevations with the solar panels. It was the height we were looking for. All good.

Ms. Bennett said that there were a couple of pieces in the Planner's report about the application fitting cleanly and clearly within our ordinance. One of which is had to do about how we treat this. Whether it's a limited marina, or not, and how that fits in with our Shoreland Zoning. The suggestion from the Planner is that, within the Shoreland Zone on this property, we use a 'use that is similar to' a commercial pier, generic

industrial limited marina. The, within the non-shoreland Village Zone, because there are multipole zones on this property. As we discussed during the sketch plan, the PB should review as a continuance/potential expansion of a presumptive legally non-conforming use. Is everyone in agreement with those recommendations from the Planner.

PB members were in agreement.

Ms. Bennett said that, in regard to the potential expansion of this use, the Planner dedicated a lot of time in clarifying, according to the applicant's request, what this, because this is a conversion of basically a gravel yard where there are boars stored and worked upon, that this would be a conversion from an outdoor to an indoor use. That is an expansion of buildings but that this is just going to be a continuation of current work being done as a nonconforming use on the property. You also attested, in our review, that you would possibly be adding some additional employees, possibly up to three (3) in addition to the twenty (20) you have; that there would be allowance for allowing this to be throughout the year instead of spiking seasonally. As the Planner noted, §45-192(a) does allow up to a 25% expansion within any 10-year period that this doesn't seem to be exceeding that, at all, with the increase of possible employees. Is everyone in agreement that this would still conform to the current code regarding expansion of a non-conforming use.

The PB members were in agreement.

Ms. Bennett asked if any PB members had any items within the Planner's review that you would like to raise and discuss.

No PB members had anything more to discuss.

Ms. Bennett said that, if there is nothing more, I would accept a motion.

Ms. Braun moved, second by Ms. O'Connor, that the Planning Board approve the Site Plan Review Application and Shoreland Zoning Permit Application for PB23-2 for a Boatyard Expansion at 857 Main Street, with the following findings of fact (in addition to other applicable findings of fact to be included in the Notice of Decision):

- 1. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and the Shoreland Zoning Permit Application have been 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 § 44-35, land use standards.
- 3. The Planning Board finds that the proposed project is a use similar to SPR uses (commercial pier, generic industrial, limited marina) in the General Development Shoreland Zone, and, as proposed, is a legally, non-conforming industrial, commercial, and warehouse use in the Village zone that is allowable pursuant to §45-192.

The approval includes the following conditions:

- 1. The property may be developed and used only in accordance with the plans, documents, material submitted, and representations of the applicant made to the Planning Board. All elements and features of the use as presented to the Planning Board are conditions of approval and no changes in any of those elements or features are permitted unless such changes are first submitted to and approved by the Eliot Planning Board. Copies of approved permits from Maine DEP, Army Corps of Engineers, if applicable, and State shall be provided to the CEO before construction on this project may begin.
- 2. The permit is approved on the basis of information provided by the applicant in the record regarding the ownership of the property and boundary location. The applicant has the burden of ensuring that they have the legal right to use the property and that they are measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden. Nor does this permit approval constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title issues. The permit holder would be well-advised to resolve any such title problems before expending money in reliance on this permit.
- 3. The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.
- 4. No later than 20 days after completion of the development, the applicant shall provide to the Code Enforcement Officer post-construction photographs of the shoreline vegetation and developed site.
- 5. Before completing construction of the project, the applicant shall enter into a Post-Construction Stormwater Management Maintenance Agreement with the Town, pursuant to Chapter 35 of the Town Code.
- 6. Before commencing construction on any work permitted by the MaineDEP or the U.S. Army Corps of Engineers, the applicant shall provide the Code Enforcement Officer with copies of such permits.

VOTE

5-0

Motion approved

Ms. Bennett 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. Allen thanked everyone on the PB for helping sustain this parcel in its current use as Eliot's only remaining working waterfront boatyard. Thank you very much to the Planner for his help, as well.

B. 41 Rogers Point Drive (Map 32/Lot2), PB23-14: Shoreland Zoning Permit Application and Site Plan Review (Request for Planning Board Re-approval) – Replace and expand existing non-conforming residential structure.

Received: May 23, 2023

1st Heard: August 1, 2023 (re-approval review/completeness)

2nd Heard: August 15, 2023 (cont'd site review/re-approval)

Public Hearing: August 15, 2023

Site Walk: N/A

Approval: August 15, 2023

Mr. (Chris) Wilber (owner representative) was present for this application.

6:28 PM Public Hearing opened.

Mr. Brubaker said that this is a request for re-approval of PB20-19 approved by the PB on December 15, 2020, generally involving the replacement and expansion of an existing, non-conforming residential structure. The Shoreland Zoning Permit has expired and it was noted by our PB Chair and the applicant that Site Plan approval will expire three years after approval in December 2023. Therefore, it would be needed for the applicant to get an extension of that approval. This is a public hearing and there is a modified motion template included in your staff report that has both Shoreland and Site Plan re-approval. My recommendation is approval with conditions.

Mr. Wilber said that I am the former owner of the property. The property has now been conveyed to Jane and Jack Fantry. I'm also a professional surveyor and representing them this evening. The only thing that I would like to add is that my wife and I were able to complete the demolition of the second story of the boathouse and we were able to build a 1-bedroom ADU there. That is going into an existing approved septic system. The re-application that we're doing does not change the footprint of this structure at all. That footprint is exactly the same. However, the elevations, which I believe are in the packet have changed. Looking for a style that more resembles what we did with the boathouse, a single pitched roof. With that structure, they are looking at just having a single bedroom. So, the existing septic system is for a 2-bedroom design. In this case, they will have a 1-bedroom in the year-round residence and there will be a 1-bedroom in the ADU. The other thing is that part of our previous condition had the removal of several trees around the property. There were some big pine trees that were a danger plus a fairly significant

old oak tree, which presented a problem with the new structure, and all of those have been removed. I certainly understand in the previous condition or a re-approval of the re-planting of trees to replace those. I guess the oak tree was hollow so that was a good reason for it coming down. Other than that, if you have any questions of me, I'd be happy to answer.

Ms. Bennett asked if there was anyone who wished to speak to, for, or against this application.

There was no public comment.

6:33 PM Public Hearing closed.

Ms. Bennett asked what was the pleasure of the PB with this application.

NOTE: Ms. Braun said that I am going to abstain from this as I was not here for the last meeting.

Mr. Shiner said that the only change, as I understand it, is the elevation change.

Ms. Bennett clarified that it is the design of the building that has changed the elevation drawings.

Mr. Wilber said that that is correct. Where it was before more of a cape style, what we did with the boathouse is to put on a single-pitch roof, fairly modern-looking, and the new owners were looking for that same type of structure for the year-round residence. It still meets the 20-foot height restrictions so it isn't going to be any higher than the peak of the roof was previously. It's just that the design has changed.

Ms. Bennett asked the Planner, in the time since this was approved, have there been any ordinance changes within the Shoreland, or anything else, since the approval was granted.

Mr. Brubaker said that I don't know of any changes that would substantively affect this.

Ms. Bennett said, just for my own curiosity, you said that you have an approved septic system. Was this a replacement system or is it a system you've had for a number of years.

Mr. Wilber said that it has been there from the prior owners. Mr. (Joe) Noel designed it. I thought I had a copy of it but it is certainly in the Town record. It's been functioning quite well. It's a modern design. We had Morgridge come out at the end of the summer to check everything out and he said that everything was working fine.

Ms. Bennett said that I just recall in reviewing what happened with the original application that there was some discussion, at the time in 2020, about the state of the septic system. It was deemed that the existing septic system was satisfactory in meeting the State codes.

Mr. Wilber said yes. Part of it was that, when I originally purchased the property, I purchased it 'as is', and I think that was one of the changes. I don't think that now you can purchase a property in the Shoreland Zone without having the septic inspected. Part of this transfer was that they had to have the septic inspected and, as I said, Morgridge came out and went through everything, and that everything was fine. The original septic was designed in April 2000. They went through it, scoped it, and everything was functioning as it should.

Mr. Brubaker noted that, in the December 15, 2020 review, there was a letter of approval for a variance for the septic system distance to the water body from the DEP.

Ms. Bennett said that, not hearing any more questions from the PB, I will entertain a motion.

Mr. Shiner moved, second by Ms. O'Connor, that the Planning Board approve the Shoreland Zoning Permit Application for PB23-14 for the replacement of a residence at 41 Rogers Point Drive, and to grant site plan re-approval pursuant to §33-141, with the intent of the approval being a renewal of the same Shoreland Zoning Permit and Site Plan approval in PB20-19, decided December 15, 2020 – except for changes to the style of the residence and the omission of the boathouse/garage and new septic system (which are already completed) – with the following findings of fact in addition to other applicable findings of fact to be included in the Notice of Decision:

- 2. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and the Shoreland Zoning Permit Application have been 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:**
 - i. Will maintain safe and healthful conditions;**
 - j. Will not result in water pollution, erosion, or sedimentation to surface waters;**
 - k. Will adequately provide for the disposal of all wastewater;**
 - l. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat;**
 - m. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;**
 - n. Will protect archaeological and historic resources as designated in the comprehensive plan;**
 - o. Will avoid problems associated with floodplain development and use; and**
 - p. Is in conformance with the provisions of § 44-35, land use standards.**
- 4. Applicant has met §44-32 – Nonconformance. Without limiting the generality of this finding, the Planning Board also specifically finds that the new residential structure and foundation will substantially reduce the area of encroachment in the river setback compared to the previous residential structure, from 58 square feet to 9 square feet, while continuing to meet the**

existing Rogers Point Drive setback. This non-conforming lot of record is narrow and creates a challenging building envelope. Therefore, working within a significantly constrained site, the applicant has met the river setback requirements for the residential structure and its foundation to the greatest practical extent.

The approval includes the following conditions:

7. 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.
8. 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.
9. The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.
10. An approved plan for expansion of a non-conforming structure must be recorded by the applicant with the York County Registry of Deeds within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zoning boundary, and evidence of approval by the Eliot Planning Board. The applicant may make minor informational or formatting changes to the site plan, relative to the plan presented for approval, to address the information required for the recorded plan. The Planning Board's approval authorizes (and the recorded plan must have) a signature from the Planning Board Chair.
11. Within 20 days of the completion of the project, the applicant shall submit photos of the shoreland area and vegetation to the Code Enforcement Officer.

VOTE

4-0-1 (Ms. Braun abstained)

Motion approved

Ms. Bennett 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.

NOTE: Mr. Leathe entered the meeting by Zoom at 6:42 PM.

Ms. Bennett said that your voting role has been assigned to Mr. Latter this evening but we welcome all of your input on the discussions.

C. November 2023 Ordinance Amendments

- 1. Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations**
- 2. Public Park-and-Ride Lots**
- 3. Grocery Stores**

NOTE: Mr. Leathe entered the meeting via Zoom at this time.

6:43 PM Public Hearing for Item 1., Affordable Housing, opened.

Mr. Brubaker said that I do recommend a motion for each proposed amendment after the public hearing is held. Just as a reminder, per our Charter, the PB shall make recommendation for all warrant articles having to do with land use. The vote that the PB takes is put on the ballot. We expect that the SB will review at their August 24th meeting. We did publish two public hearing notices – one in the York Weekly Sentinel and one in the Portsmouth Herald/Seacoast Online.

Mr. Brubaker discussed Item 1. I did want to note a few late-breaking considerations. There's been significant discussion about what to do about ADUs in the Shoreland Zone. 'This' is the Shoreland Zoning Land Use Table (§44-34). After our discussion with Ben and Hillary on July 18th, I think that was an impetus to add ADU as a row in the land use table. We started by having the exact same allowability across all Shoreland Zoning Districts as 1- and 2-family residential up in the table. Since then, there have been discussions specifically about the Resource Protection District (RPD) and the Stream Protection District (SPD). I think we talked about how we are now prohibiting ADUs in the RPD because that seems to be the way to comply with the DEP and the Chapter 1000 Shoreland Zoning guidelines that we must follow. There was a question about what to do about ADUs in the SPD, that we don't deal with too often, that protects various streams around Town, including the York River, Cutts Ridge Brook, Shorey's Brook, and Sturgeon Creek. There are other streams that currently do not have SP in Shoreland Zoning. It was a SPR use and, based on discussion we had with the DEP and with our legal counsel, although we do feel that making ADUs allowable in the SPD would seem to be logical, for now I have recommended a change to prohibit that in the SPD to comply with the DEP's reference here and initial review. This is certainly open to discussion. I won't say that it happens often where somebody seeks to build a residence in the SPD but it certainly could happen. Already, if you look at the footnotes, you can see that if you want to build a 1- or 2-family dwelling in the SPD, you do need to go

through PB SPR after getting a variance from the Board of Appeals (BOA). So, I do think this would be a rare occasion.

Mr. Shiner said that I think it's good to be explicit.

Mr. Brubaker said that we are being very explicit in saying no. As you recall from our discussion on the 18th, LD1706 bats the ball back in the other direction and says you can't categorically prohibit in the Shoreland Zone. We're trying to find that middle ground.

Ms. Bennett said that it's interesting. Mr. Brubaker and I had a little conversation about this prior to tonight's meeting. He's definitely given a Reader's Digest version of what's been going on behind the scenes for him between what our attorney has suggested and mostly the DECD has suggested in regards to 1706. But then, there's a different opinion coming from the Maine DEP. So, I feel like that, at this time, there's no clear path on how this is supposed to be navigated, but I think it's a good and prudent position to follow the DEP's lead on this since they have purview over Shoreland Zoning. We are allowing them in some parts of Shoreland but not all.

Mr. Brubaker said that you'll notice that the ADU section is back in the ordinance amendments, primarily for technical corrections. In the discussion about ADUs in the SPD with our legal counsel, I realized that we had this section for ADUs that says that you can convert a single-family house with an ADU into a multiple-family dwelling as long as current zoning requirements are met within the conversion. I realized that what it was talking about is converting a single-family dwelling and an ADU into a 3 or more unit dwelling as that is what a multi-family dwelling is defined as. So, I felt that there needed to be a technical correction stating that adding 2-family dwelling or multiple-family dwelling for this section and then, at the end, it does say 2-family dwelling and multi-family dwellings shall not put in ADUs. The idea there is that if you have a 2-family dwelling, you can't then put an ADU on that. If you have a single-family dwelling, you can do an ADU. Or, if you have a 2-family dwelling and you want to build another unit, you could seek to do that as a multiple-family dwelling. This is really a technical correction that came to mind in the course of the discussion with our legal counsel in regard with what to do about the SP Shoreland Zoning. It's certainly open for discussion with the PB. If it's adopted, it would mean that it would establish explicitly what I think what we already implicitly think about ADUs; that they can be for single-family dwellings and not for 2-family or multiple-family dwellings.

Ms. Bennett said that I think it reflects a good change, a change that reflects all conversations we've had and the spirit and intent of the creation of an ADU. Just so you know, the stuff Mr. Brubaker is showing us did not make it into our printed materials.

Ms. O'Connor said that, essentially, the language change is, where it says 'multi-family dwellings', to append '2-family' to that so it's both.

Mr. Brubaker said yes. Other than that, I will leave it there. I think we've talked about everything else.

Ms. Braun thanked Mr. Brubaker for writing it in language the public can understand. It's clear and concise and absolutely no questions as to what it means. It made me stop and it may be confusing to our readers.

Mr. Shiner had a comment. Just as a matter of style is the use between fractional and decimal units. As an example, it says 2.5 in one section and 2½ in another. I think keeping continuity so that, as you are reading through, you are using the same measures.

Mr. Brubaker agreed that that was a good point. I'm happy to make those changes for the version that goes to the SB.

Ms. Bennett agreed it would be good to have a final edit by our Planner.

Mr. Brubaker said that we had a table for affordable housing density and our legal counsel recommended the text you see there. He also recommended we add that footnote to affordable housing developments in the Suburban Zone just reflecting the LD2003 requirement that they need to show that they have connections to a centrally-managed water system and sewer system. Then, based on my conversation with him, the duplex incentive, we think it needs more work. Potentially an additional change that could be prepared by the PB for next June. We are staying with the 20% lot coverage for water and sewer lots in the Village. With the PB comments on some of the affordable housing standards, I've tried to add those. Requiring an implementation plan for keeping the units affordable and prohibition on leasing, subletting, a short-term rental is in there, now. I think Ms. O'Connor had a question about whether short-term rentals would affect the ability for someone to come in and build transitional housing and I feel there is mutually exclusivity there so that transitional housing would not be affected by short-term rentals.

Ms. O'Connor said that I thought the leasing, subletting and the enforcement violations and penalties were really good.

Mr. Latter said that I just want to make sure that any action taken is as it was presented, not as it is printed.

Mr. Brubaker said that I baked that into the motion template.

There was no other discussion on this.

7:01 PM Public Hearing closed.

Ms. O'Connor moved, second by Ms. Braun, that the Planning Board recommend the approval of the proposed Town Code Amendments Related to Compliance with State Statutes on Increasing Housing Opportunities by Changing Zoning and Land Use Regulations at the Town Special Referendum Election on November 7, 2023, as amended. Minor formatting changes and revisions to the Background and Rationale

section may be made prior to presenting the amendments to the Select Board on August 24, 2023.

VOTE

Ms. O'Connor – Yes
Ms. Braun – Yes
Mr. Shiner – Yes
Mr. Latter – Yes
Ms. Bennett – Yes

Motion approved

7:03 PM Public Hearing for Item 2., Public Park and Ride Lots, opened.

Mr. Brubaker said that the only change is a suggestion from the SB. Selectman Widi felt that it would be good to have public park and ride facilities allowable not just in the C/I Zone but on lots abutting Route 236 in the Rural and Suburban Districts. You can see that change, although it's not in your printed version, on the screen. That would certainly open for PB discussion, whether you want to do that or not, but I did put it in there. I don't believe I have any further points on this except to add that this amendment has been cleared with our legal counsel. The specific addition has not but I believe it's minor enough that it wouldn't warrant a different opinion. The language is the standard "Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties."

Ms. Lemire asked if there was enough property in that area (northern end of Rt. 236) where it would protect the water, the environment. I'm thinking in terms of stormwater protection and that sort of thing. We're talking pavement that is huge.

Mr. Brubaker said that the facility would have to go through site plan review and show that they are meeting all the stormwater standards; that if an acre or more was disturbed, they would have to submit an erosion and sediment control plan.

Ms. Lemire agreed that there would be those requirements but I don't even know where they could put it.

Mr. Shiner said that I understand that Mr. Widi was discussing anywhere in the residential or Rural District providing it had Route 236 frontage. What wasn't discussed the amount of frontage and dimensional standards. For example, if there is an easement or ROW through a driveway from Route 236 into a lot that's behind, would that be an allowable use. My point is that I think that, if we want to entertain anything that has Route 236 frontage, we specifically state the frontage requirement is not just an access to Route 236 to a lot that would be 'inland', if you will, from Route 236.

Ms. O'Connor asked if it is 'has Route 236 frontage' or it 'abuts Route 236'.

Mr. Brubaker said that it is 'abuts'.

Mr. Shiner asked by how much an abutment and is this sufficient. In other words, if you had a pie-shaped lot where you had 20 or 30 feet on Route 236, is that a sufficient dimensional standard for a park and ride that may be behind other abutters that are actually on Route 236.

Mr. Brubaker said that it would be one of those where the applicant could make the case to the PB that their property abuts if there is, for whatever reason, a gray area as to that question. Then, the PB could find that they successfully made the case, or not. I would say that if there is a lot, like a 'flag lot', that just kind of touches Route 236, the applicant could make a pretty good case that, according to the letter of this definition, they do abut Route 236. There may be issues with non-conformance if it is a flag lot and the lot does not meet the road frontage standards.

Mr. Shiner said that that's what I was after, the dimensional standards that touches Route 236.

Mr. Brubaker said that I think that, in a flag lot case, they could make a case that, yes, they do abut Route 236. We're in the Rural or Suburban Zone, so we should have allowability for building a park and ride. So, I'm only presenting this as a discussion. Just passing it along that it was the SB suggestion.

Mr. Shiner said that it is my personal opinion that I'm willing to entertain it but we need to dig into it, first, because there could be other implications with lot configurations in those zones.

Ms. Bennett said that I think you raise a really valid point. I think that, as this is written, we're treating park and ride equitably in regards to other commercial uses allowed in the same manner along Route 236. Even though we don't extend our C/I Zone as a definitive area on our zoning, we do allow for similar commercial uses beyond that zone if it is directly abutting Route 236. That's why you see some restaurants and gas stations and things that are not allowed in the Rural Zone along the arterial.

Mr. Brubaker said that one suggestion would be, if the PB wants to go this direction, that you could add "if the property abuts Route 236 and has street frontage consistent with §45-405.

Mr. Shiner said that that gives the dimensional standard that I'm looking for.

Mr. Brubaker said that that would mean that, if it's in the Rural District, it would be 200 feet. Suburban is 150 feet.

Ms. Bennett asked what was the sentiment of the PB.

Ms. Braun said that I think we should add that language.

Ms. O'Connor asked what was the reason to be that specific in wanting the frontage measurement to be really explicit.

Mr. Shiner said because you're allowing a use that's associated with the Commercial District in additional districts as an abutter 'by right' to Route 236 and you should consider including dimensional standards in those zones so that there isn't almost a kind of gerrymandering of a lot in order to get approval because you meet a standard just to be an abutter. It has to be a dimensional standard on how much you abut.

Ms. O'Connor said that there are like 10 footnotes that allow uses if you abut Route 236 and there's no specific language. If you look on page 10, footnotes 13-18 I think just say if you abut Route 236 you can have this additional usage if you're not C/I. I wondered if you had a really particular interest because this was about traffic. I was actually thinking that, if you were really specific, you were thinking that that might alleviate the fact that the park and ride traffic would likely access the parking lot from the rural side as opposed to from the Route 236 side.

Mr. Shiner said that that's part of it, too, and I think it's about dimensional standards. If you're going to have buses, you're going to have to have swing-turn radius, a bunch of stuff going on, which gets you in and out of the lot. But, to have somebody, perhaps, in front of you on part of that lot who also abuts Route 236, to have that kind of parking lot behind them, that was my point about dimensional standards. Not just a driveway with access but you are on Route 236 for the area of use.

Mr. Brubaker said that one thing to clarify, too, is that for all those other footnotes that Ms. O'Connor mentioned that are like the one you see on the screen now, you wouldn't be able to do a lot line adjustment where you kind of create a new flag lot because you would be creating an illegally, non-conforming lot. A flag lot would only be potentially developable for any of these non-residential uses if it can demonstrate legally non-conforming lots of record. I do want to clarify that somebody couldn't engineer a flag lot and have a park and ride parking lot with a long, long driveway deep into the Suburban or Rural District.

Ms. Bennett asked how we feel about Mr. Shiner's proposal.

Ms. Braun said that I think we should add the language for dimensional standards just to be clear so there's no question.

Ms. Bennett said that we will hold only eligible properties that can exercise this right would be the ones that have adequate frontage as defined in §45-405.

Mr. Latter said that my question is that, even given the worst-case scenario, if we don't add the dimensional standards what are we trying to inhibit, and is it worth the effort of

trying to define this and is there an unintentional consequence to defining those standards and not allowing this where we might want to otherwise allow it.

Mr. Shiner said that I would work the other way and I would suggest to you that use prescribes specifically what's required, up front, and if somebody has something that doesn't adhere to those requirements, then they can come before the Board and see if it's allowable, for whatever reason.

Mr. Latter said that it's just been floating through my head the whole conversation.

Mr. Brubaker said that I think the idea, here, is to try to prevent a certain lot from hosting a park and ride where the shape of the lot allows a park and ride to be embedded deeper back from Route 236 and behind or in the midst of residences. I think the street frontage addition would be an imperfect tool to lessen the likelihood of the situation. I do think it would be possible for certain lots that have adequate street frontage to still have a park and ride that might have an affect on abutting residential properties. We do have this visual screening requirement for all of these types of non-C/I commercial uses. But, I do think that either way without any change to this language, here, then you're pretty good with adding that language to probably rule out a few more lots that could otherwise have that kind of proximity impact that you're talking about.

Ms. Bennett asked would we like to instead entertain, not knowing how we would word this or what the mechanism would be, but let the park and ride be sited within sight of Route 236. A lot of times, my perception is that park and rides for safety, and just public awareness, are often sited within the visual travel way. You're traveling the road, you see this park and ride, and know that it exists. The other piece is that having an isolated park and ride can make an attractive nuisance, in a way; that other things besides parking and riding can happen there that are not, perhaps, appropriate or desirable. It may bring in some things to the Suburban and Rural Districts that our ordinance clearly wants to prevent. That's just a thought.

Mr. Shiner said that we could envision that there will be some sort of light stanchions and parking lighting in a bus shed. you know, you have your car and wait at the little enclosure. Those are logical paths of developments. Again, to the point, if you go deep into that territory off Route 236 and you start putting up light stanchions, and so forth, you could very well run into issues with abutters. That's why I think the dimensional standard of frontage on Route 236 is an appropriate ask.

Ms. O'Connor said that I think that's a reasonable proxy without being super duper specific in trying to name and enunciate every possible thing, which we don't want to do.

Mr. Shiner said that it qualifies that you've got the right kind of lot.

Ms. Bennett said that, as the Planner stated, it is an imperfect tool. Someone could use adequate frontage and still propose, for whatever reason. Maybe there's a lot of wetlands withing the first 600 feet, as an example, of the 'L'-shaped property.

Mr. Brubaker said that we also have our other tools in the toolbox, like glare and no parking in the setbacks.

7:25 PM Public Hearing closed.

Ms. Bennett said that the Chair would request a motion.

Ms. Braun moved, second by Mr. Shiner, that the Planning Board recommend approval of the proposed Town Code Amendments Related to Park-and-Ride Lots at the Town Special Referendum Election on November 7, 2023, as amended. Minor formatting changes and revisions to the Background and Rationale section may be made prior to presenting the amendments to the Select Board on August 24, 2023.

VOTE

**Ms. O'Connor – Yes
Ms. Braun – Yes
Mr. Shiner – Yes
Mr. Latter – Yes
Ms. Bennett – Yes**

Motion approved

7:27 PM Public Hearing for Item 3., Grocery Stores, opened.

Mr. Brubaker said that there are no changes. Our legal counsel has reviewed and is amenable to it.

There was no public comment.

7:28 Public Hearing closed.

Ms. Bennett asked if there were any thoughts or suggestions or are we prepared to make a motion.

Ms. Braun moved, second by Ms. O'Connor, that the Planning Board recommend approval of the proposed Town Code Amendments Related to Grocery Stores at the Town Special Referendum Election on November 7, 2023. Minor formatting changes and revisions to the Background and Rationale section may be made prior to presenting the amendments to the Select Board on August 24, 2023.

VOTE

**Ms. O'Connor – Yes
Ms. Braun – Yes**

Mr. Shiner – Yes
Mr. Latter – Yes
Ms. Bennett – Yes

Motion approved

ITEM 8 – OLD BUSINESS

A. Community Outreach – Proposed Ordinance Amendments for November Ballot.

Ms. Bennett said that we have discussed, at various points along the way, in crafting the ordinance relating to compliance with State statute on housing doing some community outreach about these amendments on the November ballot. The last we left the conversation we were talking about having a public information session, developing some materials and talking points to convey to the public that we were going to be having a public information session and, then, to convey what is in translating this background and rationale that we've developed into succinct and digestible materials and talking points for them. I reached out to the Town Manager to ask if there was an opportunity to meet and discuss this public information session and any outreach that might be happening from the Town regarding ballot issues in November. He was not able to meet because there's so much going on in Town right now, most particularly, all of the road work and the sewer expansion that is demanding a lot of his time and energy. Mr. Brubaker and I had an opportunity to speak briefly about this and what we discussed, and this is just for further PB discussion, is perhaps we add at least a half hour prior to the scheduled meeting where we would dedicate having a public information session. Start at 5:30 PM and maybe do this for our first meeting in October. So, the first question is whether that structure would work instead of having a stand-alone meeting at another time, which is time-consuming for everyone involved.

Ms. O'Connor said that she was supportive of the idea. Have you thought about how you would advertise or invite people to this in a way that is different.

Ms. Bennett said that I would like to brainstorm that, as a group. One thing is that we do have somewhat of a budget; that there is the prospect of being reimbursed by the State of Maine for implementing this band-aided changes to our ordinance. One of the qualified, reimbursable items is related to public education around the ordinance amendments. We talked about the possibility of sending a postcard mailer to every household in our Town to let them know we were having a public information session, that there is information on our website, and which ordinance we will be talking about; that we will open it up to all three ordinance amendments we are proposing.

Ms. Braun said that that is a lot to pack into a half hour.

Ms. Bennett agreed. So, we'll have to allow for the possibility that this will go on beyond the usual start of our meeting at 6 PM.

Ms. Braun said that I think we should include the text of these ordinances on our website so they have the information before they come and they can develop their questions before they come.

The PB agreed that they should point to the website.

Mr. Shiner said that, having pointed them to the website, it's important to have the cliff note version so that we don't lose them through too much text.

Mr. Latter commented the executive summary. I would speculate that, if we send a post card, it will get attendance to the meeting just because it's something nobody has ever seen before.

Mr. Shiner said that I would hope that there is great attendance and even more attendance on Zoom.

Ms. Bennett said that that Zoom link could be put on the website.

Ms. O'Connor asked if we would also put information in a few public places, like the Transfer Station, Town Hall, where we normally post things, and then maybe post it in places where we don't normally post things.

The PB agreed that they could, such as the Maine Market.

Mr. Shiner asked how do we address social media.

Suggestions were Eliot Community Page and Eliot Online as possibilities.

Mr. Shiner said, regarding that from a narrative standpoint, we have the opportunity to put up things that we want to make sure are communicated on social media outlets, whereas to help minimize some of the hearsay.

Ms. O'Connor agreed. If we do nothing and only send postcards, there will be loads of conversation on those two or three platforms without anything official; that whoever sounds like they know the most will be the one who gets repeated, whether it's right or wrong. It would be great to have a copy of the postcard be posted on the social media sites.

Ms. Bennett added with a hyperlink to the website.

Ms. Lemire said that 'mandate' needs to be emphasized, too.

Mr. Shiner said yes, but it starts with a 'did you know?' approach because I'm sure a lot of people don't know and this is going to be their first introduction to what's going to be on the ballot.

Mr. Brubaker said to just remember that, when you are engaging in dialogue on this on social media, to add the appropriate caveat. As an example, something is posted as a link to the Town website and that link goes to what the official Town information is. If you then engage in a comment section, just make sure you are aware that you would be speaking as an individual, not on behalf of the Town.

It was suggested that 'questions happen at the session' be included.

Ms. Bennett said that I think it would be interesting to observe what the conversation is on social media. But Mr. Brubaker just made a good point about us engaging in that conversation in an online forum. There could be potential pitfalls and stepping out side our roles.

Mr. Brubaker said that the only thing I can think of, and I'm not legal counsel, is ensuring that people won't get the impression you are giving the Town's official position. But, you have every First Amendment right, as a citizen, to say what you want to say.

Mr. Latter said that I'm sure we can come up with a response to let people know that we can't deliberate this with them online and are just giving them the information.

Ms. O'Connor suggested 'We encourage everyone to attend the session and bring your questions there.'

Ms. Bennett added that, if we develop this executive summary (the cliff note version), then we can drive them back to that. Have it robust enough to capture the spirit, the requirement. This is a compliance with law but the fact is that it is not a turn-key, take the State's rules, and put it into our ordinance; that I has been crafted and adapted to our current ordinance.

Ms. O'Connor added that, because we know that there are some folks who will not come to the website, we could also say that a full text version of all these materials is available at the Town Hall and the library. We could print it out in a binder for people to take a look at.

Ms. Bennett said that, in talking with Ms. Tackett, from her recollection the Comp Plan mailer cost about \$3,000 to have printed and mailed. It took about a week to 10 days, once the copy was created, for the print house to print and actually get mailed and received by the households. Working back, we want this to land in mailboxes at least a week before the October 3rd meeting. We could set the public information meeting on the second meeting of October to give us a little more time. That makes it three weeks before the election. If we want this to get to voters by the third week in September, we basically have to have finalized this on the 5th, everything that needs to be done.

Discussion of creating a draft of the postcard for finalization at the September 5th meeting: Mr. Shiner and Ms. O'Connor volunteered to do that. Mr. Latter volunteered to help with formatting, etc.

Ms. Bennett will follow up with Ms. Tackett as to exactly what deliverable needs to go to the printer/mail house on that.

Mr. Latter added that he has some experience doing direct mail election pieces so I can give it a stab (developing graphics, etc.).

Discussion finalized how the three members would create and bring a draft postcard to the September 5th meeting, without needing to meet in person together, that would then be reviewed and approved by the whole PB.

It was agreed that the public information session would be held October 3rd at 5:30 PM, prior to the regular PB meeting.

ITEM 9 –OTHER BUSINESS/CORRESPONDENCE

A. Review and approve minutes

Minutes of June 6 were deferred until the next regular meeting.

B. Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town Planner, Board Member.

Mr. Brubaker asked if everyone got the new schedule. Several members did not so he will have it emailed out again.

Ms. Bennett said that Mr. Shiner did take the FOAA training through MMA about a week ago and he passed along the materials that he received from that meeting. Including a Certificate of Completion. You did include a question to me ‘Did you know that all PB members are required to take FOAA training within 120 days of a new term?’.

Mr. Shiner said that it’s either the official training or you can go through the website they have and self-certify.

Ms. Bennet said that, if you go to the Maine Attorney General FOAA site, there’s an FAQ that you can go through and self-certify. This is something that should really be provided to our Town Clerk so that we are all compliant. I was going to propose creating a Board manual, over time, that is digital so that we can start to accumulate these documents. In addition, I will send out what was presented in Mr. Shiner’s training, the Attorney General FOAA FAQ page, and the April 5, 2022 minutes that contain the FOAA training we had with our Attorney to all members.

ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING

June 6 minutes
Postcard finalization

Car wash continued review
Notices of Decision

The next regular Planning Board Meeting is scheduled for September 5, 2023 at 7PM.

ITEM 11 – ADJOURN

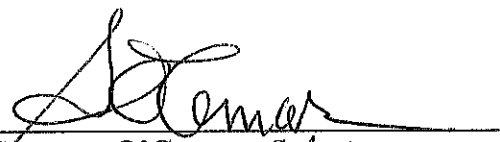
Ms. Braun moved, second by Ms. O'Connor, that the Planning Board adjourn.

VOTE

5-0

Motion approved

The meeting adjourned at 8:13 PM.


Suzanne O'Connor, Secretary
Date approved: 28 Sept 2023

Respectfully submitted,

Ellen Lemire, Recording Secretary