

MINUTES  
PLANNING BOARD  
TOWN OF DAMARISCOTTA  
FEBRUARY 5, 2018  
6:00 PM

**MEMBERS PRESENT:** Jonathan Eaton, Shari Sage, Neil Genthner, Adam Maltese, and Wilder Hunt. Alternate members Dana Orenstein and Jenny Begin were also present.

**STAFF PRESENT:** Anthony Dater, Town Planner

**PUBLIC PRESENT:** Chris Roberts, resident, LCN; Ronn Orenstein, resident, Selectman; Ann Pinkham, resident; Gabe Shadis, resident, SSHI neighbor.

**CALL TO ORDER:** The Chairman called the meeting to order at 6:04 pm.

The Chairman requested that the Pledge of Allegiance be recited.

**REGULAR MONTHLY MEETING FOR FEBRUARY 2018:**

**A. MINUTES:**

**October 16, 2017:**

On motion Genthner / Hunt to approve the minutes of the October 16, 2017 Planning Board meeting as amended (typos).

**VOTE: 5-0 IN FAVOR**

**November 13, 2017:**

On motion Genthner / Hunt to approve the minutes of the November 13, 2017 Planning Board meeting as amended (typos).

**VOTE: 5-0 IN FAVOR**

**December 4, 2017:**

On motion Genthner / Hunt to approve the minutes of the December 4, 2017 Planning Board meeting as amended (typos).

**VOTE: 5-0 IN FAVOR**

Dater told the Board what the outcome of the Board of Appeals hearing was on SSHI that took place earlier in the day. The BOA voted 3-2 to accept the appeal and reject the Planning Board's previous decision.

Eaton noted that the hearing was recorded by LCTV and will be up on their website in a couple of days.

**B. OLD BUSINESS:**

1. **DAMARISCOTTA MAIN STREET, LLC: 435 MAIN STREET (GUN CLUB ENTRANCE) MAP 1 LOT 056-001 – HIGHWAY COMMERCIAL DISTRICT – AMEND JANUARY 8, 2018 NOTICE OF DECISION (NOD) OF APPROVED SITE PLAN CONCERNING REQUIREMENT FOR A COMMUNITY IMPACT STUDY. (PUBLIC COMMENT ONLY AT THE CHAIR'S DISCRETION).**

Dater explained that he's made the revisions the Board discussed at their previous meeting and he has clean copies for the Chair to sign. Under the advice of the Town Attorney the Board should make a motion and vote to revise the approved Notice of Decision, correcting the typos and remove the requirement for a community impact study.

On motion Hunt / Genthner to amend the notice of decision approved on January 8, 2019 to remove the requirement for a community impact study and correct noted typos.

Begin read through excerpts of the minutes from various meetings and understands that the Board did not formally vote on requiring a community impact study and that's why the Attorney says that the requirement should be removed from the NOD, but in her mind, it blatantly points out the problem with the process. She would like to encourage the Planning Board members to vote against changing the NOD and to entertain a motion to vacate the final decision to approve the plan and go back and do the process right – including waivers, from the beginning. It's a huge project and they should take their time and hold workshops to work through the massive amount of information.

Maltese stated that he was thinking similarly, given the possibility of an appeal out there, it makes sense to go back and go through it line by line.

Eaton stated that he was not unhappy that the project was allowed a small amount of parking at the front of the one building. The ordinance does allow for the granting of a waiver on that issue period. Eaton stated that he for one was not in favor of going back to square one on this.

Begin stated that the Board had compromised on several parts of the ordinance, the architecture of the buildings for one.

Eaton stated that he didn't mind the architecture of the buildings. The developer changed his plan from his original submission in direct reaction to the public's feedback at the public hearing.

Begin agreed, they did make changes but in reviewing the Freeport building restrictions & guidelines, she thinks they are fantastic and that's what this town needs. She is very concerned about what the larger building in the back will be used as.

Hunt stated that this Board voted 5-0 that the application was complete after 7 meetings and then voted 5-0 to approve the application. He thinks it behooves the Board to move on. He understands Begin's position, it's been her position since day one. There comes a time to say the vote was unanimous and she has to live with that. He has no interest in rehashing the whole thing.

Eaton agreed. He stated that he has no interest in adopting Freeport's building codes. An impact study isn't necessarily good or bad – it's pretty difficult to do one on an empty building – what impact will that have? He's also not sure what they would do with any info gleaned from the study – tell the developer no, you can't do that go away? He went on to say that he feels the biggest impact will be the traffic flow & patterns and MDOT is doing a traffic impact study and is coming up with a plan that the developer will have to follow.

Begin stated that she doesn't put a lot of faith in the MDOT traffic studies.

Begin asked Dater how impact studies are used.

Dater stated that he believes it could be used to negotiate with a developer to determine what could be put into Town, steer them toward one type of business over another type. The information could also be used for ordinance amendments down the road.

Eaton stated that it didn't sound very useful to him.

Genthner stated that requiring an impact study should come at the beginning of the process, after a developer told them of their plans. There can't be an impact study on nothing and a Board can't tell someone what they can or can't do with their property, if they meet the ordinance. He further stated that he agrees with Hunt about not going back to the beginning and start over.

Sage stated that she agrees with Begin on rescinding the whole vote and start back at the beginning and do it correctly. Too bad that it's taken 7-8 months to review this. She also doesn't agree with playing the Fire Department card to get the waiver. Developers must review Town ordinances and Fire Department requirements before bringing an application to this Board.

Hunt reminded the Board that the Town voted NO on form-based codes 4+ years ago. The Town voted NO on a moratorium in November. Those votes were pretty clear to him – the Town has spoken. This Board DID follow the ordinances before them.

Sage stated that they really need to strongly tell the developers that they must fit their projects to Town ordinances, not the other way around. She went on to say it's enormously unfair that a person must be present at Town Meeting to vote. Not allowing absentee or early voting significantly limits the voice of the Town. It ends up that 50 people decide all of the Town business.

Hunt stated that there was a motion on the floor and the Board should move on.

Eaton agreed, he's not in favor of bringing everyone back and starting over. The Board did pay attention to this application, they went over it step by step, this is not Freeport, those buildings are okay.

As far as stormwater management – that plan gets designed by the State. This Board is no expert on that, and he believes leaving it to the experts is the best thing.

Maltese stated that he would be in favor of looking at each item on the checklist, comparing it to the ordinance and voting on that.

Genthner stated that the Board did that, they didn't vote each item but they reviewed each one. The only item the applicant didn't meet was the parking in front, which the ordinance allows for a waiver. The handled the application according to the ordinance in his opinion.

Maltese stated that the Attorney had suggested that going forward the Board motion & vote on each item in the checklist on any application before them.

Hunt agreed this would be a great idea going forward.

Orenstein suggested bringing in the Lincoln County Regional Planner to help the Board review plans on larger projects in the future.

Eaton stated that if the Town is serious about the sidewalks, it should be in the ordinance and made mandatory for any new development to contribute to it. If the Town is serious about forbidding parking at the front of a business, then take out the waiver option all together.

Sage stated that this Board really needs to look long term when making decisions.

Eaton called for a vote on the motion, which stated:

*On motion Hunt / Genthner to amend the notice of decision approved on January 8, 2019 to remove the requirement for a community impact study and correct noted typos.*

VOTE 5-0 IN FAVOR

Eaton signed 3 copies of the revised Notice of Decision.

2. ZANDER LEE CONSTRUCTION – NISSEN FARM ROAD (EXTENDED)- LOT 4/31 -RURAL DISTRICT-REVISED PRELIMINARY PLAN APPLICATION FOR PROPOSED NINE LOT SUBDIVISION ON EXTENDED NISSEN FARM ROAD.

There was no one present for this application.

C. NEW BUSINESS:

1. JM AUTOMOTIVE – ACROSS FROM 705 MAIN STREET (RT. 1B LILY BROOK APARTMENTS) – LOT 3/42 HIGHWAY COMMERCIAL C2 DISTRICT – PRELIMINARY PLAN APPLICATION FOR FOUR-BAY COMMERCIAL AUTOMOTIVE REPAIR GARAGE.

The Applicant brought preliminary plans to show the Board. He told the Board that he had met with Dater to go over some items. The Board reviewed the site plan presented.

The applicant explained that he is planning to purchase the property and erect a 4-bay garage for automotive repair. He told the Board that he is not planning to bring in any additional fill, only move some material from an existing hill to other parts of the property to help level it out. He told the Board that he is approximately 300 feet off Main Street. He will file a driveway entrance permit with MDOT. He will need to wait for the snow to melt to see if there is an existing culvert under the existing driveway to see if he can widen it per MDOT requirements. He believes he has approximately 5-6 trees that will need to come down on the whole property.

The applicant told the Board that he is still getting estimates on the building at this time. He's unsure if it will be stick built or a prefab steel building but either way it will be metal faced. It will be approximately 50' x 80' and house an office, a restroom, a storage space, and the rest will be garage space with 4 car lifts inside.

The applicant pointed out the location of the future septic system. He told the Board he is unsure of the location of the well at this time.

Dater asked about stormwater flow. The applicant told him that all the drainage currently goes towards the existing creek, he doesn't plan to change that. Dater questioned whether that would trigger any stormwater quality control issues.

Genthner asked if there would be any floor drains in the garage.

The applicant told him that he was not doing any floor drains because then he is required to have an oil/water separator and he doesn't want that expense. He currently uses absorbent matts that are disposed of through Regional Rubbish in a water tight dumpster so everything is completely contained.

Orenstein asked about skeleton vehicles or vehicles that never get pick up.

The applicant told her that once he strips anything of use off of a vehicle it will get picked up to be disposed of. Nothing will be "dumped" in place. He may have an old car project there and abandoned vehicles of any value may be occasionally put up for sale onsite – that's it.

Dater stated that it's up to the Board to decide if they want to hold a public hearing or a site visit

Sage asked the applicant if he'd had any feedback from the Lily Brook apartments across the street.

The applicant told her not in this current location. He went on to say that he was originally planning to put the shop on lily brook property, but there was some negative feedback and that's why he decided to look elsewhere.

Hunt asked Dater what the most direct way was to get an answer on the stormwater issue.

Dater told him that he did not believe that this project was large enough to trigger a review by DEP. The site plan ordinance can require an applicant to get an engineer to design the stormwater management system. It would be a judgement call by the Board.

Begin stated that there are the Standard Best Management Practices handbook available through DEP that the applicant could review and use and not need to get an engineer involved. Most items are just common-sense things like snow melt run off and contaminates. The person doing the excavation should be familiar with those items.

She asked the applicant if the parking area was going to be paved.

The applicant stated that he is not planning to pave it.

Begin stated that gravel drive & lot will help with runoff.

Maltese asked if it was outside the shoreland zone.

Dater stated that he believed it was, but he would need to review the map to be certain. After reviewing the map, it was noted that this site is 75' outside of the shoreland zone.

Maltese asked if the ordinance stipulated the number of cars he would be allowed to store on site.

The applicant told him that he doesn't usually have any more than 10 cars at the most. A person would need to pull all the way up into the lot to see anything but he would be willing to put up a fence to block the stored vehicles, if that helps.

Dater read from the ordinance "...auto / truck repair garage may have 5 vehicles per service bay..." This applicant plans on 4 service bays so up to 20 vehicles.

The Board thought that was an awfully high number.

Eaton didn't think the fence would be necessary since the plan is to be pretty far into the lot, off the road.

Sage stated that she would suggest that the applicant keep the fence as an option.

The Board reviewed the checklist with the applicant, noting that he will need to complete and pay for building permit and site plan review applications. The applicant will also need to send notice to abutters by certified mail.

The Board did not feel that a formal boundary survey would be required because the boundaries are very clear on this property, so the applicant will meet with the Planner on how to submit a written waiver on this. for the formal boundary survey because the boundaries are very clear.

The applicant will need to make an application with the CEO for any signs planned.

The Board noted that elevations and graphics would not be required because this is not to be a retail use. Maltese suggested a picture of the building proposed for the file, once the applicant makes the decision.

Dater asked the Board if they wanted a written statement from the applicant regarding his practices for handling his waste oil. Applicant told the Board that he never has more than 2 55-gallon drums of waste oil on hand.

Genthner suggested a copy of the DEP rule and an outline of the applicant's practice could meet that requirement.

Financial Capacity: Board felt a letter from the applicant's bank stating that he can attain financing for a project of this size would meet this requirement.

Dater told the applicant that he will need to file a plumbing and a waste water subsurface application with the CEO.

Begin asked the applicant what his plan was for preserving the landscape.

Applicant told her he needed to take down 2-3 trees to give the entrance room for turning in and maybe some small saplings. He is not planning to take down anything more onsite.

Applicant asked if the Town had any restrictions on outdoor wood furnaces.

Eaton didn't believe it was addressed specifically in the ordinance. If there were complaints about it, the CEO would have to address the complaints with the applicant.

Dater stated that it talked about soot / smoke not the generator of them.

Begin asked about lighting.

The applicant stated that he plans for outdoor, shielded downward lights over doors for security.

Dater told him that there is a 16-foot height maximum on the outdoor lights.

Applicant will contact Dater if he has further questions and to get on the next agenda.

2. DAMARISCOTTA WATERFRONT RESTROOMS – HARBOR MUNICIPAL PARKING LOT – C1 DOWNTOWN COMMERCIAL DISTRICT AND SHORELAND COMMERCIAL ZONE – SKETCH PLAN REVIEW. AMENDMENT OF THE SHORELAND ZONING ORDINANCE FOR FREEBOARD FOR RESTROOMS.

Tabled until March meeting.

#### D. OTHER:

1. REVIEW DRAFT PLANNING BOARD BYLAWS.

Dater suggested the reviewing of the bylaws be tabled until the March meeting to allow the Board more time to look over the draft.

2. QUESTIONS FROM THE PUBLIC

3. PLANNER'S REPORTS

Dater told the Board that he will be away for the May meeting and requested that the date be changed.

Eaton said that it sounds like a good idea to move it back a week.

The Board agreed to reschedule the May meeting to 05/14/18.

4. HOUSEKEEPING ITEMS

Dater stated that there may be 3 public hearings coming for the March Planning Board meeting in an effort to get ordinance changes on the warrant for Town Meeting in June.

Begin suggested that the Board hold a workshop or 2 prior to the public hearings.

Dater stated that this could be scheduled if the Board decided to do so. It would be a public meeting where the Board only discussed the specifics of the public hearing.

The Board discussed possible workshop dates.

The Board decided to hold a workshop meeting on February 26, 2018 at 6pm to discuss ordinance changes.





E. ADJOURNMENT

On motion Hunt / Genthner to adjourn the meeting at 7:50 pm.

VOTE: 5-0 IN FAVOR

Respectfully submitted by:

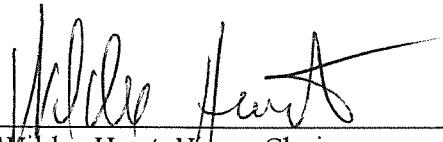


Rebecca J. Bartolotta, Deputy Clerk

We, the undersigned, do hereby approve the minutes of the **February 5, 2018** Planning Board meeting:



Jonathan Eaton, Chairman



Wilder Hunt, Vice – Chairman



Neil Genthner



Shari Sage



Adam Maltese

Dated: 04/02/2018