

MINUTES  
PLANNING BOARD  
TOWN OF DAMARISCOTTA  
NOVEMBER 13, 2017  
7:00 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; Jenny Villeneuve, Town Attorney.

**PUBLIC PRESENT:** Jon Stormont, Nissan Farm Lane resident; Cheryl Strohmeirer, Nissan Farm Lane resident; Ronn Orenstein, Selectman; Amy Lalime, Stepping Stone Housing, Inc (SSHI) neighbor; Marilee Harris, Executive Director SSHI; Lisa Read, Nissan Farm Lane resident; Craig Dahlberg, Bank; J.M. Lopo, Hannaford Representative; Chris Chase, Coastal Journal; Louis Abbotoni, resident; Andrea Keushquerian, resident; Lucy Harrington, resident; Jessica Sirois, SSHI neighbor; Susan McAlister, SSHI abutter; Gabe Shadis, SSHI neighbor; Paul Sherman, SSHI neighbor; Cindy Sherman, SSHI neighbor; Debra Lucchesi, SSHI resident; Ann Pinkham, resident; Scott Gray, Zander Lee Subdivision Representative; Nancy Bailey, Resident; Chesley Farrell, Nissan Farm Lane resident; Hass Tobey, resident; Sandi Day, resident; Scott Abbotoni, resident; Maia Zewert, LCN; Tom Quaranto, interested party.

**CALL TO ORDER:** The Chairman called the meeting to order at 7:02 pm.

**REGULAR MONTHLY MEETING FOR NOVEMBER 2017:**

The Chairman requested that the Pledge of Allegiance be recited.

**A. MINUTES:**

**August 7, 2017** – Sage requested the August minutes be tabled until the next meeting so she could have time to review the audio recording for potential additions, specifically on the section where she was addressing the Board as a private citizen.

**September 11, 2017** – On motion Sage / Hunt to approve the minutes as submitted.

**VOTE: 5-0 IN FAVOR**

**B. OLD BUSINESS:**

1. **STEPPING STONE HOUSING, INC. (SSHI): PLEASANT AND HODGDON STREETS – MAP 7 LOT 041-001-RESIDENTIAL DISTRICT-REMANDED SITE PLAN FROM THE BOARD OF APPEALS FOR FINDINGS OF FACTS ON LEGALLY NONCONFORMING DWELLINGS AS OF MARCH 23, 1998.**

Eaton told the room it was NOT a public hearing.

Town Attorney Jenny Villeneuve started by saying that the Board of Appeals remanded the grandfathering issue back to the Planning Board because they did not feel there were enough facts in the record to support the Planning Board's decision on grandfathering. That means that the Planning Board now has to take up the issue of grandfathering to see if there are more facts that could be added to a new revised NOD that would support the number of units grandfathered.

Eaton stated that the number of buildings was been substantiated at 7 in his memory – the CEO also substantiated the 7 dwellings. SSHI ultimately reduced the request to 6 units. He went on to say that he believes the Planning Board did go through the abandonment issue – it was his understanding that vacancy does not determine abandonment.

Villeneuve said the 09/06/16 minutes discuss abandonment and included the final decision on grandfathering. She went on to say that non-conforming means established before the ordinance was enacted, which she believes in this case is the Land Use Ordinance in 03/23/1998. She told the Board that they need to take action on that finding of fact and include it in the revised NOD as well.

At the August 2016 meeting a survey plan dated in 1995 was submitted – which is clearly before the ordinance and it shows what was on the property as of the 1995 date. Hunt described aloud what was on the plan, confirming it shows 6 buildings and it was believed that there was an apartment in the Andrews house, making 7 dwelling units.

Marilee Harris clarified that their amended application was to replace 5 buildings, they plan to keep one, making the total dwellings at 6.

Villeneuve also told the Board that the non-conforming condition is that there are more structures on the property than what would be allowed under the ordinance. It doesn't really have anything to do with occupancy. Occupancy does not determine abandonment. The buildings' existence creates a structural or dimensional non-conformance, it is not about abandonment. The grandfathering is of the structural or dimensional non-conformance in this case.

She told the Board one way for one of the non-conforming structures would be considered abandoned could be if that structure "went away" for a period of time with no building permit filed and no intension by the owner at that time to replace it. From a legal perspective, occupancy or the lack of does not determine abandonment.

Sage stated that she thought part of the objection from abutters was the volume of people on that small parcel. 7 units would potentially yield 28 people. Is there a maximum occupancy restriction?

Maltese stated that the ordinance doesn't speak about maximum occupancy, only number of structures.

Villeneuve agreed with Maltese – there is no wording in the ordinance on maximum occupancy of a dwelling.

Villeneuve stated that the Board needed to make the review of the 1995 survey clear in the finding of fact.

Dater asked if siting in the NOD that 1995 survey showing 6 units was submitted to establish existence?

Villeneuve agreed it definitely could.

Sage didn't recall a formal check list from the CEO that the 7 units on the lot met all of the grandfathering requirements.

Eaton told her it didn't work that way – the CEO gave his opinion to the Board on the grandfathering.

Gabe Shadis told the Board that the BOA remanded due to the abandonment issue – there's no question there were 7 units at one time.

Villeneuve told the Board that they will need to include facts that establish that the units existed before the ordinances and that the structures persisted to exist. She suggested that the Board dig through minutes and any evidence collected at the time and include that info in the finding of facts in the NOD. She said the Board could also request a determination from the assessor's office regarding the existence of the structures.

Jessica Sirois asked if they could request a public hearing. She wanted to know if they could see the documents used by the CEO to determine that they were grandfathered since a number of the dwellings were abandoned.

Eaton told her that there would not be a public hearing tonight but anyone could request a copy of any document or information pertaining to that matter through the Town Clerk's office.

Marilee Harris told the Board that she brought additional evidence regarding the abandonment issue. She brought rental records for each building.

Villeneuve explained that the remand issue is based on the record created by the Planning Board at the time of the application review and submitted to the Board of Appeals, and existing town records- no new evidence can be submitted or considered.

Villeneuve recommended that the Planning Board review the information and reconvene in a public meeting to go through the fact-finding items one by one, for the record.

Sage wanted to clarify that the Planning Board vote was not unanimous.

Dater told the Board that he will revise the NOD and have a draft for their review at their next meeting.

Sage asked for clarification – is the Planning Board allowed to receive & review new evidence in this remand or not?

Villeneuve restated that the Board is only allowed to review the facts in record, that were submitted to the Board of Appeals.

There was a question from the audience about re-opening the entire application and holding public hearings for new evidence etc. Villeneuve didn't think that could be done, but agreed to research that – it's not usual procedure in a remand.

2. DAMARISCOTTA MAIN STREET, LLC: 435 MAIN STREET (GUN CLUB ENTRANCE) MAP 1 LOT 056-001 – HIGHWAY COMMERCIAL DISTRICT – REVIEW OF PRELIMINARY PLAN FOR THREE RETAIL/PROFESSIONAL/COMMERICAL BUILDINGS.

Andy Sturgeon and Shawn Tobey were present representing this project. Sturgeon told the Board he believed that this was their 7<sup>th</sup> appearance before them. He told the Board that the planner had issued a memo this afternoon with 8 items on it (copy attached (A)) and he would like to address the items on his memo. He feels that once those items are addressed, he believes the Board will have everything they need.

Dater confirmed that if the Board felt they had everything on the checklist, it is possible that they could act on the completeness of the application. He suggested that the Board go through the checklist again to see what additional items may have been submitted.

Sturgeon told the Board some parts of the process are confusing. When the Board went through the checklist at the last meeting, they determined that an impact study was not needed, yet it is item 8 on the planner's memo, so they are wondering if it is back on the table now.

Eaton confirmed that the Board decided that the applicant did not need to do an impact study, mainly because they didn't know what was coming in there yet. It didn't make sense to require an impact study on something that doesn't exist yet, just because it's a big building. He mentioned maybe once they get a tenant for the largest building, one could be done.

Begin felt an impact study could be done based on what category tenant is planned; retail store, restaurant space, professional office space, etc. Begin had sent an email to Board members prior to the meeting containing some of her thoughts for possible Board consideration. (copy attached(B))

Dater stated that any significant change of use would require an amended site plan application. A building permit would be required for each building for CEO to review and approve/determine Planning Board action.

Maltese asked Sturgeon if they were seeking a permit to do all 3 buildings or just one at a time?

Eaton told him they want approval for the whole project.

Sturgeon confirmed that was correct. They were instructed by the Planner to submit the building permit with all 3 buildings listed and that's what they did. He went on to say that they understand that once a tenant has been secured for a space, they have to come get CEO approval (building permit) for what the use will be.

Maltese asked Dater for clarification – If all 3 buildings are approved by the Planning Board, the applicant would not have to come back before the Board to occupy those buildings.

Dater said it would depend on what the Board approves on the site plan. If they approve commercial buildings, that may be sufficient. If they bring in a restaurant instead of a retail space, that may be enough of a change in use, in the opinion of the CEO, to trigger a visit to the Board.

Maltese asked if the entire plan was approved, they might not have to come back, so this could be the only opportunity this Board has to request an impact study.

Dater confirmed this, stating that the impact study relates to the site plan review, not a building permit.

Sage asked which building is the location for a possible restaurant.

Sturgeon told her that IF a restaurant were brought in, it would be in the 5,500 sqft building to the right as one enters the lot, not the larger building in the rear.

Sage asked if the major impact concern would be the traffic, noting that there are not yet enough turning lanes through that section of Main Street. She feels that should be considered as there is more property available out that way for development.

Sturgeon told her that the MDOT traffic permit is more in depth than an impact study – MDOT requires a lot of steps to obtain their permit. They conduct their own traffic safety study first and then make a determination of how to best address traffic in that area.

The Board decided to review the checklist again, noting that as it matched up with Dater's 8 points they could discuss each item further.

Begin asked if a building permit had actually been submitted with all of the requirements in item one on the check list? She expressed concerns that actual elevations were not included as with the Dollar General project. They were shown drawings on an easel with some elevation notes, and then never saw it again.

Shawn Tobey stated that it was his understanding that they would include that information with each individual building permit. He went on to explain that they are currently seeking a permit for the plan, which includes 3 boxes on it. When they go to actually construct each building, those details will be worked out and included with the Building Permit application.

Sturgeon told the Board that they have submitted a written request for a waiver on the location of the parking at the 2<sup>nd</sup> building (5,500 sqft)

Dater told the Board that the next item on the list that has not been submitted is: "location, size and character of all signs and exterior lighting of signs (see sign ordinance)" He went on to say that they have shown an example of the planned sign, but to his knowledge no application for sign has been made to the CEO at this time.

Sturgeon told the Board that he did not see anywhere in the ordinance that required an approved sign permit at this point in the process. They've submitted an example of the planned signage with measurements and located them on the site plan as noted. They know they will need to complete and submit an application for the signage, when they get to that point.

The Board felt the applicant had met this requirement with the current submittals in the application.

Dater stated the next item missing from the check list is:

“Elevations and graphics on how proposed structures comply with the ‘Building Appearance Requirements’ of Sect. 11.V for building or buildings totaling 7,500 square feet or less gross floor area. {Sect. 11.V}”

And:

“Elevations and graphics on how proposed structures comply with the ‘Building Appearance Requirements’ of Sect. 12.A for building or buildings totaling 7,500 square feet or more gross floor area. {Sect. 12.A}”

Sturgeon stated that the graphics & elevations were present on the renderings of each building included in the application packet.

Begin stated that she thought there was a requirement for more windows.

Dater told the Board that they have submitted something, then there can be substantive review by the Board of it.

An audience member asked if the drawings presented could be turned for the public to be able to view.

Eaton asked the applicant to turn the easel more toward the audience.

Dater told the Board that the applicant has submitted the latest FEMA information which covers the floodplain requirement and he believes the rest of page 2 of the checklist has been taken care of.

The Board agreed.

Dater confirmed that the applicant had previously submitted letters from the Great Salt Bay Sanitary District, both the wastewater and water divisions that they have the capacity to provide the necessary services to this project.

Dater stated that he hasn’t seen anything regarding supplying water for fire protection yet.

Tobey pointed out the location on the utility site plan, of an additional water line coming into the buildings from the street for fire protection.

Eaton acknowledged seeing that on the plan.

Dater marked this item complete on the list.

Dater read the next item needed on the list:

“preserve & enhance the landscape: compliance with applicable soil preservation requirements or with excavation requirements. (section 11.A for developments <7,500 sqft) (section 12.E for developments >7,500 sqft)”

Dater stated that it is needed and he didn't know what if anything had been submitted on this item.

Sturgeon asked Dater for clarification on this – he stated that a detailed landscape plan has been submitted.

Eaton stated that they have submitted the landscape plan. He thinks it is a pretty good one; They plan to preserve the existing landscape buffer at the side & rear lot lines.

Tobey stated that since the last set of plans, they've enhanced the landscaping at the front of the property, noting the latest set of plans was submitted.

Genthner & Eaton acknowledged the latest plans were in front of them and landscaping was sheet 8.

Sturgeon stated there is now a berm with additional plantings shown on the plan that they will talk more about when they get to the waiver request.

Maltese requested a PDF copy of the newest plans.

Eaton agreed, requesting they be sent to the Town Planner for distribution to the Board members.

Tobey agreed to this.

Dater read the next item on the list:

“Relationship to environment & neighboring buildings: compliance with applicable setback and buffer strips for parking areas. (section 11.B for developments <7,500 sqft) (section 12.E for developments >7,500 sqft)”

Dater noted that he understood a waiver request had been submitted.

Sturgeon clarified – a waiver for just the front right-side building parking. They feel they meet all the qualifications for the parking for the rest of the buildings & property.

Dater stated that the Board concludes that they have sufficient submittals on this item.

Dater stated that the only other item on page 3 was under parking & vehicle circulation. He stated that there is a need for review on the segmentation and islands for the parking. He would like to see how they are dealing with the 40 vehicles.

Sturgeon stated that he felt they meet the requirements of the ordinance on that but wanted to make sure that Dater was comfortable with it as well.

Dater told him that it was the burden of the applicant to prove to the Planning Board's satisfaction that they have met the criteria.

Sturgeon requested that they discuss this item now. It is shown on sheet 5 of the site plan.

Tobey explained to the Board what they were looking at on sheet 5. He reviewed the locations of the islands & number of parking spaces relative to those. He showed that the islands were landscaped as well. He told the Board that they fully understand that the intent of the islands is to break up the parking so as not to have a "sea" of parking spaces.

Storm water management: Dater told the applicant that there have been concerns expressed about water quality once it exits the wet pond with respect to downstream aquaculture. He told the Board that they could, at the applicant's expense, get an independent engineer to review the water quality aspect of the storm water proposal if they felt this was an issue. He told the Board that the applicant has provided a storm water management plan, but there's no way to know the impact on the water quality.

Sturgeon explained that licensed engineers are reviewing their storm water management plan through the Maine Department of Environmental Protection. They have to get a storm water permit from the State of Maine, meeting all of their standards, which are stricter than the Town's.

Genthner suggested that once the permit was obtained and they had a chance to see what it says, then the Board can make that decision.

Begin asked if the wetlands were located on any town maps.

Eaton stated that they were.

Begin asked if they were official wetlands, and why wasn't there a buffer around them in this project.

Tobey explained that the stream itself has a buffer (shown) because it's a different type of waterbody. He also stated that a wetlands scientist will go in and field map each wetland area based on soils & plantings. They had a wetlands scientist go into this property before the survey, and locate those for their DEP permit process. Those areas are shown on the latest site plan sheet C3.



Begin asked if the number of wetlands being filled in includes the excavation for the pond.

Sturgeon indicated it was 1/5 of an acre being filled in.

Tobey stated that the pond was not in the wetlands, it's located in the buffer area. DEP permitting allows placement of the pond in the buffer as long as it isn't within 25 feet of a stream.

Begin expressed concerns about the amount of water being pushed onto the neighboring property of Damariscotta Hardware – there is already quite a bit of water back there from the Hannaford property.

Tobey explained that the State looks pretty hard at those kinds of things, analyzing run off & flow rate. The pond is designed so that there isn't going to be any more flow rate than what was happening previously, that's one reason DEP is requiring it. He told Begin that there are maps included in the DEP permit application (copy included in Town application) addressing the different types of storms and where the water will go.

Sage asked if the snow will go into the pond as well.

Tobey stated that it would, eventually. Snow will likely get stacked at the rear of the parking and as it melts, it will end up in the pond.

Eaton asked what kind of maintenance the pond area would require.

Tobey explained that it must be mowed twice a year and inspected to make sure it's not full of trash preventing the filtration from working. He went on to say that the State requires a complete maintenance agreement as part of their permit.

Begin clarified that the agreement is with the State, not the Town.

Tobey agreed, stating that it is a State permit. The specific notes referencing the maintenance are on the plans submitted to the Town, so he supposed the Town could also enforce that.

Dater continued through page 4 of the checklist.

Sewage Disposal: covered

Buffer Areas: Board stated that the landscape plan submitted covers this item.

Dater told the Board that because the total footprint of this project comes in at approximately 23,000 sqft, exceeding the 20,000 sqft mark, section 12 of the Site Plan Review Ordinance would be applicable, including the option for the Board to require a community impact study, if they want.

He told the Board that at this point they may want to consider whether this application is complete. If complete, the application becomes preliminary status, at which time the review becomes substantive from what's been submitted.

Dater also mentioned his memo containing 8 points for their review and Begin's comments submitted for the Board's review.

Dater further stated that the Applicant has submitted a written waiver request.

Eaton stated that he thought Dater's 8 items should be where they start at this point.

Sturgeon asked Dater if the 8 items were things pertaining to determining a complete application or were they substantive items for review once deemed complete.

Dater stated that he thought they were substantive review items.

Sturgeon requested that the Board determine the completeness of their application before he addresses Dater's memo, so they have some direction going forward.

Begin asked if the Board is allowed to ask for more information once the application is voted complete, for example a community impact study.

Dater told her that they could, under the substantive review of the submittals, ask for more information.

Eaton explained that once the Board gets to the approval point, that could be a condition of approval, that the applicant come back to the Board once they know what will be going into that 3<sup>rd</sup> building and the Board would review the information and then determine at that time if they feel an impact study should be done.

On motion Hunt / Genthner that the application for site plan review by 435 Main Street, LLC is a complete application as presented.

**VOTE: 5-0 IN FAVOR**

Sturgeon proceeded to review the 8 points brought up on Dater's memo.

1. Parking (section H.3.a)

Sturgeon outlined the written request for waiver. He stated that they are only requesting a waiver on the parking in front of only one of the buildings (5,500 sqft), the one on the right. He told the Board that their plan is very much consistent with the neighborhood.

Tobey told the Board that they've enhanced the landscape plan for the front of the property, specifically that building, including the addition of a berm with plantings to help screen the parking from view on Route 1B (Main St) while still allowing some view of the signboard on the building to satisfy the client. He showed some examples of what that might look like.

Eaton stated that he thought they did a great job with the screening & berm idea.

Sage asked what the height of the berm was.

Sturgeon stated it was 3 ½ to 4 feet high.

Hunt stated that he thought the applicant did a fantastic job addressing the community's concerns from the public hearing. He told the applicant he appreciates their willingness to adapt from their initial plan.

2. 50' Buffer (section T.1.d)

Sturgeon pointed out that their site plan shows 52.5 feet between the traveled way to the buildings which should take care of this item of concern.

Dater stated that he included this in the event the Board required the applicant to move the building to force parking in the rear.

Eaton stated they've met this requirement.

3. Number of parking spaces (section H.2)

Sturgeon stated that the initial plan called for 192 parking spaces, but they've reduced the number to 142, which represents the minimum amount of parking required by town ordinance if one of their spaces is used as a restaurant. Any further reduction in parking will significantly restrict the possible uses.

Hunt stated that the Town has an acute parking problem – he finds it completely absurd to even be talking about having them reduce the parking spaces further.

Begin wanted to encourage the Board to reduce the number of parking spaces because in reality, except for the downtown parking lot in the middle of summer, parking lots are mainly empty throughout the year.

Genthner told her that the applicant has already reduced the number by 50 spaces.

Eaton stated that he didn't think the number of spaces for the size of the project was outlandish.

Audience member, Sandi Day encouraged the Board to move forward without reducing the number of parking spaces.

4. Divided Parking areas (section H.6)

Sturgeon told the Board this has already been addressed. They've included the islands' locations on their site plan submitted and showed the Board this info earlier tonight.

5. Footcandle Requirement (section D)

Sturgeon told the Board that they feel they meet this requirement.

Dater told him that it didn't look like full cutoff fixtures on the plan and he just wanted to be sure that the applicant was aware of the requirements.

Sturgeon stated that they will make that correction.

Dater pointed out to the Board that they can require that all lights, other than security lighting, get turned completely off after a certain time of night.

Eaton told Dater if this applicant was going to be required to turn their lights off at 11pm then everyone up and down Main Street would also need to comply with that.

Dater stated that the Board could do that.

6. Stormwater run-off (sections K and L)

Sturgeon told the Board this has also been addressed earlier tonight with the conversation about the DEP permitting process. The applicant feels that this is already being addressed by an independent engineer through the State.

The Board agreed this had been covered and answered.

7. Aesthetics of the buildings (sections 11.V and 12)

Sturgeon told the Board that it seemed to him that this has been reviewed extensively by this Board.

Hunt agreed and stated that he saw the changes made as positive in response to the community's concerns at earlier meetings.

8. Community Impact Study required? (section 12.H)

Sturgeon told the Board that they discussed this at great length earlier in this meeting. It was up to the Board at this point.

Hunt asked the applicant what they thought their impact on the community would be.

Sturgeon told him they did their own sort of study when deciding where to go & why. It wasn't a decision made lightly, they have clients, specifically banks & retail entities asking for this area. He told the Board that there is quite an interest in Damariscotta and he thinks this development will fill up quickly. Maltese asked if they had done economic studies on the area, either consumer demand or lease demand.

Sturgeon stated that they had, but he doubts it is to the degree this Board would want to see.

Begin stated that she'd previously talked to Catlin and he said it's mostly info from the State economist.

Sturgeon reviewed the Planning Board process with the Board in an attempt to find out where they were in the process.

Dater told him that the Board votes an application complete, then it begins it's substantive review under preliminary plan status.

Hunt stated he remembers the process as

Vote a complete application  
Vote waivers, if any  
Vote to approve or deny the application

He doesn't recall a vote on the preliminary plan ever.

Dater confirmed Hunt's recollection as correct. He went on to tell the Board that once an application is complete they can schedule a public hearing, with notification to abutters, and or a site visit.

Sturgeon confirmed with Dater that they've already had a public hearing, with notification to abutters AND a site visit.

Dater told the Board that they could hold an additional public hearing and additional site visit.

No Board members felt the need to do an additional site visit.

Maltese requested the ability to review the newest site plan before making any decisions on the waiver request, as they've only just received the new plan.

Dater told the applicant that the Board may want to see the DEP permit before acting on the application. He also told the applicant that he hasn't heard the Board say that they are completely satisfied with the aesthetics of the buildings at this point, so that may be a point for discussion going forward.

Begin asked if this applicant was meeting the building aesthetics portion of the ordinance.

Dater stated that he would encourage the Board to go over section 11.V and section 12 in detail to answer that.

#### C. NEW BUSINESS:

1. HILLTOP MOTEL: 374 MAIN STREET AT HILLTOP SERVICE STATION – PRELIMINARY PLAN REVIEW FOR PROPOSED EIGHT ROOM MOTEL.

No one was present for this project.

**D. OTHER:**

**1. STANTEC – SKETCH PLAN QUESTIONS ON PROPOSED ACCESSORY BUILDING AT HANNAFORD SUPERMARKET-469 MAIN STREET- MAP 01 LOT 059 – COMMERCIAL HIGHWAY C2 DISTRICT.**

Jay \_\_\_\_\_, representing Hannaford was present representing this application. He told the Board that they applied for and received a building permit from the Town in early October and started construction. The CEO was overruled by the Town Planner and told they had to come before the Planning Board.

Dater confirmed this. He told the Board he looked at the ordinance and realized that Hannaford needed a conditional use permit to construct an accessory building for Clynk recycling program in the commercial zone under the Site Plan Review.

Dater went on to say that the proposed location is close to the road, so the Board will want to make sure that setbacks & buffers will be met according to the ordinances.

Eaton asked what the square footage was of the existing Hannaford building.

Jay stated that it was 57, 145 sqft as it stands.

The Board confirmed that this is already over the 35,000-size cap.

Hunt asked Dater for clarification - if it's already non-conforming, can they be permitted to add square footage to make it more non-conforming?

Jay told the Board that they were proposing a separate stand-alone building of just 384 square feet, not adding onto the existing building. He told the Board that it was similar to what they built in Waldoboro.

Dater explained that the ordinance reads all buildings on a property. The applicant is calling it an accessory building, but it would still apply to the limit of 35,000 sf per property in the ordinance in his opinion.

The Board discussed different types of buildings – temporary, outdoor storage etc.

Dater told the Board it could possibly consider it outdoor storage since there's no plumbing or foundation and the only electrical will be for an external motion sensing light.

Genthner stated even if they did that, it still meets the definition in the ordinance of a structure.

Eaton felt that would be a slippery slope to start down.

There was some discussion on the existing buffer to the property, donating some of the parking spaces to increase the buffer and support sidewalk construction.

The applicant showed renderings of what the building would look like and how the system works.

Sage read from the Site Plan Review Ordinance section 11.V on building appearance.

After discussion on the options, the Board didn't feel this could be permitted given the current ordinances.

It was suggested that it may be possible if Hannaford subdivided that piece of property selling to a separate entity, owned by someone other than Hannaford.

The applicant agreed to review their options with Hannaford corporate and request to be put back on the agenda when they are ready to proceed.

## **2. QUESTIONS FROM THE PUBLIC**

## **3. PLANNER'S REPORTS**

## **4. HOUSEKEEPING ITEMS: SIGNING NOTICE OF DECISION (NOD) HELLER**

## **5. ZANDER LEE SUBDIVISION – NISSAN FARM LANE – SKETCH PLAN**

Scott Gray was present representing this project.

Dater explained to the Board, according to the ordinance, if a lot is over 40 acres in size it is not considered a subdivision lot. This lot is 41 acres so in his opinion it can be handled without including the existing subdivision lots. The applicant is seeking 14 lots.

Gray told the Board that the plan is evolving. At this point lot #1 is mostly wet and will likely be absorbed and the acreage will be spread out among the lots on that side of the road. He also told the Board that there is a buyer for what is now lots # 7 & 8 so he's recommended to the owner (Lee) that they sell those lots as 1 lot now, and then subdivide the remaining acreage.

Maltese asked how long Lee has owned the lot.

Gray told him that he's owned it since August 2015 and has not divided it prior to this plan.

There were several neighbors present, who currently own properties in the existing Nissan Farm subdivision and they were not happy with the currently proposed plan, stating that there were very different deed restrictions proposed for the new part of the subdivision. They felt this if this was to be an extension of the existing subdivision, the deed restrictions should be uniform. The abutters also felt it was too many lots for the property, there would be too much wear and tear on the existing road, which is privately owned and that the new covenants will allow multi-family units and a possibility for low income housing.

Dater told them that the rural zone under the existing ordinance allows for duplexes.

Eaton wasn't sure the restrictive covenants are any business of the Board.

The abutters wanted to know what their rights were.

11/13

Eaton told them to consult an attorney.

The abutters were not happy that this item wasn't even on the agenda when they received certified letters to come to tonight's meeting.

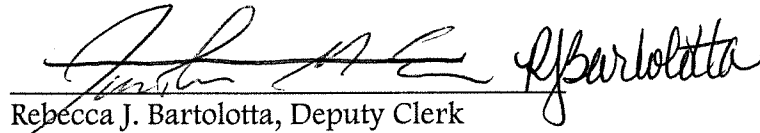
Dater told them that the applicant jumped the gun a little bit with the notification of abutters, because this is just a sketch plan – they were not officially on the agenda, so he will need to resend the notifications once they determine a date of public hearing.

#### E. ADJOURNMENT

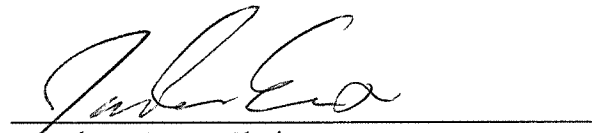
On motion Genthner / Hunt to adjourn the meeting at 10:30 pm.

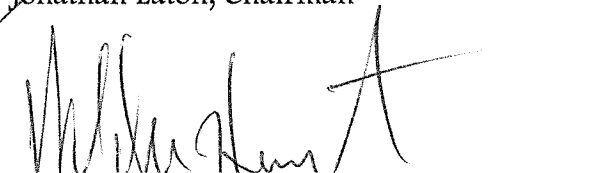
VOTE: 5-0 IN FAVOR

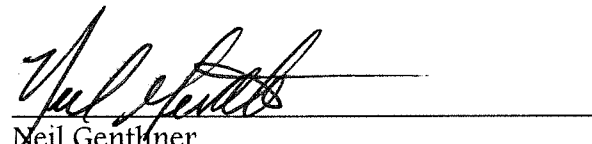
Respectfully submitted by:

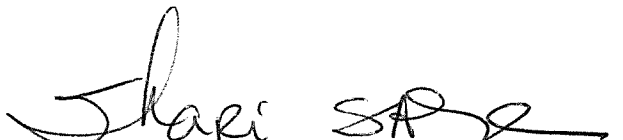
  
Rebecca J. Bartolotta, Deputy Clerk

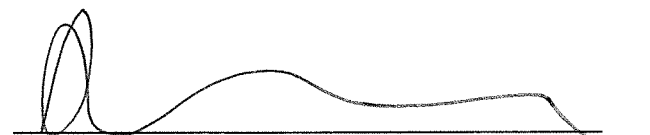
We, the undersigned, do hereby approve the minutes of the November 13, 2017 Planning Board meeting:

  
Jonathan Eaton, Chairman

  
Wilder Hunt, Vice – Chairman

  
Neil Genthner

  
Shari Sage

  
Adam Maltese

Dated: 02/05/18



TO: Planning Board  
FROM: Staff – Town Manager and Planner  
DATE: 11/13/17  
FOR: Board meeting 11/13/17  
SUBJECT: Waiver Request for 435 Main Proposal

NOV. 13, 2017

Staff review of the proposed preliminary plan dated November 7, 2017 results in the following recommendations for Planning Board consideration.

1. There should be no parking allowed per the Site Plan Ordinance, Section H.3.a. between Main Street and the sides of the proposed commercial buildings facing Main street. Parking may be located beside the proposed buildings or behind them away from Main Street.
2. Per Section T.1.d. there must be at least a 50 foot vegetative buffer between the edge of the traveled way and any building.
3. Per Section H.2. the Board may allow fewer parking spaces, down to one per 1,000 sf of leasable floor area. This could result in less stormwater run-off
4. Per section H.6 the parking areas shall be divided into smaller areas of no more than 40 parking spaces with curbed landscaped islands.
5. Per Section D. it appears the proposed plan conforms to the footcandle requirement. For maintenance of the nighttime quality of Damariscotta however, all outdoor lights could be required to be turned off. But security lights affixed to the buildings could remain on. But the proposed wall pack lights are not side shielded and should be to prevent horizontal glare.
6. Per Sections K. and L. all stormwater run-off as proposed should be channeled to the back of the lot to the wet pond. In order to assure the quality of the water released from the pond, the Board could hire its own engineer to review water quality plans and make recommendations. The expense would be paid by the applicant.
7. Per Section 11.V and Section 12, the review of aesthetics of the buildings need to be conducted by the Board.
8. Per Section 12.H. does the Board need to require a Community Impacts study to better assess the impact of the proposal on existing businesses in town?



10 November 2017

Dear Damariscotta Planning Board:

As I drive by the chain link kennel fence now enclosing the retention pond on Business Rt. 1 at the corner of Biscay Rd., I note that the steep grade from Biscay Road to the Sherwin Williams building does not allow for a safe sidewalk. I reassure myself that certainly the town staff and volunteers who reviewed this plan did not understand what the development would look like.

The fence (one of 3 planned fenced enclosures), the crazy engineered high maintenance drainage scheme, the lack of loading docks for trucks, the main entrance sited near a very busy intersection (the busiest in town?) and the unfortunate Biscay Road grade were in the submitted plans. The building face along Biscay Rd. has no windows, contrary to ordinance requirements.

I suggest that future commercial development applicants be required to submit drawings of each building's appearance from all sides and street views from each public right of way that would indicate elevations and signage/light/fence/vegetation placements. Landscaping plans should indicate the status of the vegetative grow-out in 5 years time and favor native species. Any final revisions, such as the sidewalk and corner crossing landings, would be reflected on an amended site plan. (This did not happen in the case of the Dollar General/Sherwin Williams development and their plan was not adjusted to leave adequate room for a safe sidewalk)

In addition, a schedule of required site inspections (foundation, drainage, plumbing, landscape ect.) should be included with each each permit. The inspections should not be done by town employees but town-hired professionals paid with fees provided by the applicant. (As an example of a problem that could of been mitigated with an appropriate inspection: The Sherwin Williams building foundation is too close to the road. An inspection should have been made of the foundation grading and forms before the cement was poured.)

The town permit fee schedule should be reviewed to see if it is adequate for the costs incurred with overseeing commercial developments by town staff, volunteer boards and consultants. The Town of Freeport has a detailed Commercial Building Packet that is worth looking at.

With respect to the 435 Main St proposal I ask that we discuss the possibility of requiring an independent environmental/ economic/community impact review of the project at this board meeting. The proposed 435 Main St. project will add more than 27,525 sq. ft of retail and with the 3500 sq ft bank — a total of 31,025 sq. ft of commercial space (Bldg #1—5525 sq. ft. — 3 spaces@2000 & 2000 & 1525; (Bldg# 2 —22,000 sq.ft.—2 spaces@ 13,000 & 9,000 and the Bank @3,500 sq. ft.)

The 27,525 sq. ft. of 435 Main St. retail space along with the 12,000 sq. ft. of the Dollar General/Sherwin Williams development adds up to 39,525 sq. ft. of new retail space in our town added in under a year. An economic/ community impact review would look at retail trends in the area and explore how this addition of retail space would affect existing business districts and rents. The national trend favors small owner-operated businesses marked by exceptional customer service. We want to avoid retail blight in our town.

The back building (22,000 sq.ft.) with its tractor trailer loading bays and layout seems designed for a discount grocery retailer or a small walmart. Such a tenant would have a striking impact on local grocery/retail businesses. Are we comfortable about approving a development that seems tailored to attracting unknown formula stores without understanding some of the ramifications? For information on this topic please check out: Institute for Local Self-Reliance website at <https://ilsr.org/key-studies-why-local-matters/>

Considerable wetlands (9,980 sq. ft) will be filled with this project. From the plans it appears that additional wetlands (? sq. ft.) will be excavated to build the detention pond. We need to know the source of delineation information used on the plans and should require independent verification of the wetland characteristics since we heard comments from members of the public during the hearings that the drainage on the property increased in recent years and may have been affected by the work on the adjacent Hannaford lot.

Although there may be less than 3 acres of impervious surface on the lot, runoff during storm events will be considerable, increasing the volume of flow to the wetlands and eventually Castner Creek. Parking should be reduced to 114 or fewer spaces as allowed by our ordinances to minimize impervious surface, a decrease of 28 or more spaces from the current plan.

There are 4 input pipes into the deep detention basin--2@ 12", 1@18", and 1@24" in width and one 30" outlet. As the basin fills with weeds and cattails, the capacity will be reduced and the plans recommend annual maintenance. This annual maintenance should be noted in any final agreement. We ought to recommend reducing parking to 114 or fewer spaces as allowed by our ordinances to minimize impervious surface, a decrease of 28 or more spaces from the current plan)

The proposed detention (not retention) basin design should be independently evaluated to insure that the water flowing from the site into the headwaters of Castner Creek does not contribute a toxic load of sediment, hydrocarbons and heavy metals into the Damariscotta River which supports a 16 million dollar oyster fishery (as well as clam, eel, smelt, alewife, and scallop fisheries.)

Just some thoughts for your consideration,  
Jenny Begin  
Second Alternate

