

PLANNING BOARD MEETING MINUTES
PUBLIC HEARING/MEETING of the PLANNING BOARD
TOWN of DAMARISCOTTA
July 12, 2021 6:00 P.M.

MEMBERS: Jonathan Eaton, Chairperson; Jenny Begin, Neil Genthner, Wilder Hunt and Ann Jackson

ALTERNATES: Dan Day, Gary Rosenthal

ABSENTEES: Ann Jackson, G. Rosenthal

STAFF PRESENT: Robert Faunce, Interim Town Planner; Stan Waltz, Code Enforcement Officer; Becky Bartalotta, Town Clerk; Lynda Letteney, Recording Secretary

PUBLIC PRESENT: Peter Ebanks, J&J Grocery; Emily Davey, neighbor to 88 Main St.; Stacy Simpson, resident; Gwen Purcell, resident; Andrea Keushguerian, resident; Dee Dee Wong, customer of J&J Grocery; Mary Louise, Newcastle business owner; Ching Ling, resident.

I. Swearing in of New Officers/Members

Becky Bartalotta sworn in **Jen Begin**, and **Neil Genthner** as members of the Planning Board. **Dan Day** was sworn in as an alternate.

II. CALL TO ORDER

The meeting was called to order at 6:00 p.m. by **Chairperson Eaton**

On motion (Hunt/Genthner) to have Dan Day fill in for Ann Jackson **Vote: 4-0-0**

III. MINUTES

On motion (Genthner/Day) to approve the minutes of June 14, 2021 as distributed.

Vote: 4-0-1
(Begin abstaining-absent 6/14/21)

IV. BUSINESS MEETING

A. OLD BUSINESS

1. 88 Main Street, J&J Grocery – Public Hearing

Bob Faunce opened the public meeting stating that the public hearing was being held due to public concerns about the smoke generated by the smoker. Hearing was opened at 6:05 p.m. The first speaker was **Emily Davey**, a resident and neighbor to J&J Grocery. She had very positive things to say regarding the grocery, but was concerned about the volume of smoke output being generated. She wants them to stay in business and is hopeful there is some way to mitigate the smoke that enters her 2nd floor residence across the “alley way” street. She does not have air conditioning and leaves doors and windows open in warm weather. She plans to convert the back barn building into a clothing shop and is concerned about smoke smell on new clothes.

The second speaker was **Peter Ebanks**, manager of J&J Grocery. He stated he had no intention of disturbing anyone. Smoke permeates all thru downtown. “I can smell everyone’s, including wood burning from furnaces and chimneys.” **Jonathan Eaton** said there is only 20’-25’ from the building across the alleyway. It is in the same spot as a previous restaurant. He asked if they had a picture of it,

saying he believed it was a pretty big smoker. He asked if anyone lived on the third floor. **Peter** replied his mother and kids. So far he plans to run it Fri-Sat-Sun but it has been sitting for 3 months. **Emily Davey** interjected that the issue is smoke not odors. **Neil Genthner** asked if the backside, on the street, if there was room, or any other location. **Jonathan** reminded him this was an issue for discussion in the regular meeting not the public hearing.

Stacy Simpson spoke next. She said she was in favor of the smoker. The restaurant brings culture to Damariscotta. Previously she had to travel to Portland and/or Lewiston to get the ingredients she needed to cook a Jamaican cuisine as she has a Jamaican daughter and she encourages her to know the culture. Additionally, she is spending her money away from Damariscotta and would prefer to put it back into the local economy. She likes giving back to the community. She feels we (the community) have to be careful about what we do. She feels everyone needs to think about the better good and appreciate others coming here with diverse cultures. **Jonathan Eaton** said all restaurants have to go through the Planning Board, no exceptions. There is a site plan review. Things crop up, and need to be addressed, other smokers in town are not as close to an adjacent building with living spaces. (20' vs. 400'). **Gwen Purcell** said that places like the pizza place and Taste of Maine have smells. "We live here and that's what it's all about." **Jonathan** said he heard her. **Gwen** responded, "I'm not worried about that. We have had smells all along." **Jonathan** commented that it is pretty close and a big smoker. It may need some controls.

Andrea Keushguerian started by saying "I've had his food and it's amazing." Yes, it'll make smoke, but her next door neighbor burns wood and there is smoke. **Jonathan** interjected that the wood **Andrea** said that it is a commercial district, the burning wood neighbor was not a business. **Dee Dee Wong** said she is from Cape Elizabeth and has brought many people up to Damariscotta on the weekends to shop at Peter's store. Mary Louise resides in Newcastle and is a business owner. She supports J&J Grocery. If the smoker gets closed, she sees it as a problem. Are they going to close Fernald's which has a strong bacon smell every day, all day. Perhaps better placement would reduce smell and smoke. **Jonathan** reminded Mary Louise that the issue was not controlling odors, but smoke. **Ching Ling** stated that the dominant wind in the alley blows from the south and sends it north from the alley.

Hearing no other people who wished to comment, **Jonathan Eaton** closed the Public Hearing at 6:30 p.m.

2. Planning Board Regularly Scheduled Meeting

Bob Faunce has evaluated the situation and **Stan Waltz** has visited the site several times. **Stan** responded that odors are a non-issue. Smoke is the issue that brought this to the Planning Board's attention. The stack is currently 4'-5' above the smoker with a damper. He was there again today. Guide wires make putting the smoker near the telephone pole. He is as close as he can get now. Smoker is free-standing on a movable trailer. Moving toward the dumpster is not feasible; no room. You could go with a higher stack (10') if it was relocated on the backside. Where it is now, it would need a higher stack (+20') and that might produce a creosote issue. This would cause a problem with fire. There is presently an 8" flu. **Dan Day** asked who the black car belonged to; response was the owner of the building and Best Thai. **Jonathan** said he was not convinced there is a problem. He has only run the smoker once. **Stan Waltz** said that where it is now it is 10' under the second floor window. He felt the best option was to locate it out back. **Peter Ebanks** said that the smoke is an attraction; people see it and come to check it out. The first time he ran it, for sample tasting, was try it, if you like it, buy the ingredients to cook at

home. Since it has only been used once, he doesn't feel that's a reason to shut it down.

Bob Faunce asked Stan if the stack is above the eaves. **Neil Genthner** was concerned about how many "elbows: would be needed for a 20' stack and creosote collection in the stack. **Dan Day** said "where is the comparison data? It has only run once. Not a real trial. It's never really been tested." **Dan** questioned if going from 4' to 6' was enough. **Jenny Begin** said 20' was crazy. **Bob Faunce** said they could approve it as is and see if there was an issue. **Bob** felt they needed to set a benchmark. **Jenny** was in favor of conditional approval and then reassess. **Bob** asked who would reassess and on what basis. He felt they needed to decide tonight so as to give the applicant options: 1) increase the stack; 2) relocate smoker to another (specified) area. **Jenny** asked if the Code Enforcement Officer would be the monitor.

Neil Genthner asked Stan if it currently met code. **Stan** said it met all fire codes. **Neil** asked again, "So, it meets our codes?" **Stan** responded in the affirmative. **Stan** would recommend one brace and proceed and see what happens. **Neil** pointed out that the wind could change in a matter of minutes. If it meets codes now, it should be approved; if there are legitimate complaints, deal with them as they arise.

Jonathan Eaton asked about the distance from the LP tank and the smoker. **Stan** said the smoker was 10'-12' away. **Neil Genthner** asked if the Fire Chief had reviewed this. **Neil** said his concern was whether or not the Fire Chief had okayed the smoker that close to the building. Several board members spoke up regarding other grills/smokers in town and if they had fire chief approval. **Neil** said he wasn't concerned about those at this time; he wanted to focus on the issue/smoker at hand. **Peter** said he asked questions of several people if it was okay. He also spoke with all neighbors and they were okay with it. **Neil** suggested a conditional okay with the fire chief's approval. **Wilder Hunt** summarized what he saw as the two issues: 1) potential odor affecting the planned clothing store in the barn building adjacent to the alley way; and 2) fire safety.

Jenny asked if the Board should ask the Fire Department to review every restaurant. **Neil** said it used to be reviewed regularly. **Jenny** said, "Sent by whom to the Fire Chief?" **Neil** said there was a step-by-step protocol. **Jenny** said we could approve the smoker with approval from the fire chief. **Dan Day** commented, "We could fire up the smoker if the fire chief approved. The town has gone restaurant crazy; it's a never ending issue." He continued saying that it is C1 with many restaurants. **Jenny** said, "That's why we are here-it's never ending," **Peter** reminded the Board that it was a restaurant before and had been permitted for many years. **Jonathan Eaton** said 25 years ago things were different. Today this is actually considered a new entity. There are more rules and regulations, codes have been strengthened, etc. It is ultimately still a new entity and the Board has to follow the rules as they are today. If the smoker is too close, the fire department has to look at it. **Jonathan** said he was very concerned about fire liability if the building burns down and the Board approved it being where it is without the Fire Chief's recommendation. **Dan Day** asked if Peter could use briquettes instead of wood. Would it ruin the flavor? Peter said briquettes are made of all types of wood. They burn hotter. Compressed wood burns hotter with less smoke. Wood burning produces more smoke and less heat, allowing for more smoke to be present in the product. **Jenny** again asked if they could conditionally approve with Fire Department approval. **Emily Davey** said for her it was a quality of life issue. She is in the process of making the building next to the smoker a residence. **Jonathan Eaton** said there are two issues: 1) Fire department approval; 2) potential excess smoke. **Neil Genthner** felt they could deal with complaints later. There is a process in place – call the Code Enforcement Officer if issues arise and we will address them. **Stan Waltz** said there is a big difference between food odor and smoke odor.

On motion (Genthner/Begin) to approve the application as presented, but it cannot be operated until the Fire Chief does a site inspection with a letter back to the Board and the Enforcement Officer.

Vote: 5-0-0

B. NEW BUSINESS: None

C. OTHER

1. Questions from the Public - None

2. Housekeeping - None

3. Planner's Report- None

4. Board members Comments

a. Jonathan had two questions. The first was whether or not there was new information on the solar farm. **Bob** said he had no application as of now. They had provided a sketch, but needed to get an official site plan according to the ordinance guidelines.

b. Secondly, where do we stand with the potential THC bakery? **Bob** said they withdrew their application because the original site chosen was too close to the 1000' set back needed. They are planning on a professional bakery with wholesale sales only; no direct sales to customers. They will reapply if they find a suitable location.

D. Adjournment

On motion (Hunt/Day) to adjourn the meeting at 7:05 p.m.

Respectfully submitted,

Lynda Letteney
Recording Secretary

We the undersigned approve the minutes for the Planning Board Meeting of July 12, 2021.

Jonathan Eaton, Chairperson

Jenny Begin

Minutes of the Planning Board (July 12, 2021) cont'd:

Neil Genthner

Wilder Hunt

Absent
Ann Jackson

Daniel Day (alternate)

Minutes for (7/12/21) signed _____
Date

