



Town of Eddington

906 Main Road Eddington, Maine 04428

PLANNING BOARD

May 10, 2016

6:00 pm

MINUTES

CALL TO ORDER: Russell stated that because there are only two regular members of the Board present tonight, there is nothing illegal about them motioning and seconding to make the alternates voting members for tonight. Susan called the meeting to order at 6:02 pm.

ROLL CALL: Members present were David McCluskey, Susan Dunham-Shane, alternates: David Johnson and Mark Perry, Charles Norburg, CEO, and Russell Smith. Gretchen Heldmann and Craig Knight have excused absences. David P has not contacted us, but he is recovering from surgery.

Motion to make David Johnson and Mark Perry voting members for tonight.

By David M/Susan Dunham-Shane 2nd. Vote 2-0

David M read from the bylaws, "A quorum shall consist of three regular members or three alternate members for the transaction of all official business."

MINUTES: Susan explained that Gretchen H had emailed her suggested changes for the minutes and Denise has given everyone a copy with her changes in red. Susan started to read the changes. Mark P said that as a point of order, you have to be here to make a motion in order to discuss something.

Motion that we accept the minutes of the April 26, 2016 as originally printed. **By Mark P/David J 2nd.**

Discussion: Mark P said that the minutes fairly stated what happened at the meeting. He further said that if Susan wanted to suggest Gretchen's changes as her own, she could do that. Susan said that she has some changes of her own also. Susan continued that when the minutes are sent to the Board, they are a draft and then they have to move to accept them or change them. Susan read the suggested changes to the minutes from Gretchen's email and the changes Susan recommended.

Amend his motion to accept changes to the minutes on page 3,402.5, add a period after 804 and then add "Applicant provided HHE 200" before "with its drawings attached and" Add "also" before "drawings 5 and 10."; 402.6 remove "it would be 805" and insert "standards for this are in narrative 805."; paragraph starting "At 7:30", change "402.10" to "402.9"

Discussion: Mark P said that the rest of the proposals are unnecessary and a waste of time. Susan said they have reviewed the minutes in the past to bring them more in line with what happened, she is uncomfortable with it and she does not feel it is being picky.

By Mark P/David J 2nd. Vote 2-1/David M voted No, Chair did not vote

Susan stated that this is an example of a situation that if the Chair voted, it would have been a tie. Mark P said that it used to be that the Chair could vote and make motions and that Roberts Rules is a format to follow, and they can decide not to follow it exactly.

UNFINISHED BUSINESS: The Board will continue their review of the application from Dollar General. Travis and Troy are present at the meeting. They will start at 402.4, proposed activity will provide adequate storm water management, as Gretchen had requested they table it at the last meeting

because they had received revised drawings at that meeting. Susan read Gretchen's emailed notes: "I am fine with the storm water information submitted. There are flood elevation changes on the drawing that I noted, but they are all lower elevations which makes sense given the increased capacity designed in the pond with this submission."

Motion that they accept 402.4 because it has met the requirements set in our ordinances.

By David J/Mark P 2nd. Vote 3-0

402.9, Project shall not cause road congestion or unsafe traffic conditions at access points. The standards for this are in Chapter 9. The applicant provided a narrative, drawings 3 and 4, a copy of the DOT application and a traffic assessment by Traffic Solutions.

Motion that they have presented enough evidence and material to satisfy all requirements of 402.9 through 402.13 and we make one group motion to accept those.

By David J/Mark P 2nd.

Discussion: Susan said that at the MMA training they specified that they need to write the finding of fact for each section after each application is accepted. Susan is questioning why they should be doing all five sections. She asked what is wrong with doing what they told them in the training and approving each. David J feels they can make a group motion and then discuss any area that anyone has a question on. He feels that it takes too long for this Board to come to a decision on anything. Mark P reviewed the items listed in the 5 sections and he feels that they have met the requirements of those sections. David M's concern is that should someone call foul on the proceedings it could put General Dollar's application in jeopardy. He agrees with Mr. Perry that they have met the requirements but if they do not go through it in a precise way, could foul be called by a neighbor on this procedure. David J said that after the motion, it is open for discussion on each item. Susan understands that there is a perception that the Board takes too long in the review process. David J said there are some items that require more discussion, but these items are benign. Susan continued that the lighting section has stricter requirements.

Motion to amend the motion to include sections 402.9 through 402.11 as meeting the standards.

By David J/Mark P 2nd. Vote: Yes-2/No-1 David M voted No.

402.12, Drawing 5 and 13

Motion that we accept 402.12 so that we have something to discuss. **By David J/Mark P 2nd.**

Discussion: David J said that you have to make a motion so that an item can be discussed. Susan said that she is doing it the way it has been since she was on the Board and she was taught by Tom Vanchieri. Susan asked the audience to be quiet as the Board is working. David J said that a lot of people do it that way, but they had a discussion about procedure a short time ago and if you want to follow the procedure, this is how it is done. Mark P said that one of the advantages of having a motion on the floor, is that people can move the question when the discussion is going on forever. Someone can move the question and someone can second it and that is a point of order that takes priority over other pending matters, so they can move to a vote and shut off the discussion.

David M asked Mark P in regards to asking the applicant questions, where in that process are they permitted to ask the applicant questions for clarity. Mark P said that during the discussion he has never seen anyone be afraid to ask questions or take information. David M asked if that question could have a bearing on the motion. Mark P answered that yes if someone were pitching their proposal, and the Board was asking them questions, they could satisfy their concerns. David M asked if the questions being asked for clarity could cause the motion to be change in phrasing. Mark P said that a person is free to amend their motion at any time. David M would like to make the point that he thinks that they could get mired in motions and friendly amendments and motion to amendments and possibly cause more of a traffic jam than we currently have. He apologized if he is out of order.

David M asked for clarity as to if the motion on the table was to discuss this item. David J said no, his motion is that they have provided materials that meet requirement to accept this as complete for 402.12.

David M then said that that motion does not allow him to ask the applicant the questions that he has for him. David J said yes it does, as soon as she opens it up for discussion. David J said they can go back to the way they are used to doing it, but typically they don't have anything on the floor to discuss until someone makes a motion. Susan said that she felt that David J was coming at the process from the standpoint of being a moderator at a public meeting. She continued that they determine if the application is complete, then they go through it for any items that they have questions and they then ask the applicant. Susan said that right now we have a motion to accept this and then she opens the floor for discussion. David J said that the discussion could turn his vote around. Mark P said that David J could then amend or withdraw his motion. Susan said that they would try it this way.

David M asked the applicant if they plan to construct a fence that separates the one story dwelling from Dollar General and how tall it will be. Troy said yes there is a fence and it is 6' high. David M then asked if the lights stay on all night and Troy said they are off at the close of business. Susan reference Section 707, Outdoor Lighting from the Zoning Ordinance. She said that the TWF1 showed as a downward facing unit. Russell said that if it would help, in the handout of the original packet, they have the Dollar General sign on the first page and in the back they have the lighting that is required, showing pole lamps and wall mounts. Russell continued that they are the same at the Town Office and Tradewinds. Susan verified with Russell that they are the same Lithonia units. Susan said that they had a problem with a prior commercial development, the island canopy over the gas pumps created glare for the people driving by, so they had to put the shield in to meet the ordinance. Troy said they have had this question before, but these lights are what is used at all of their stores and they have had no complaints. Susan verified that there is no generator or ceiling mounted air conditioning unit so it would have be a noise concern. Susan asked the general operating hours, Troy said it will be 8:00 am to 10:00 pm Monday through Saturday and 9:00 am to 9:00 pm on Sunday.

Vote: 3-0

Motion that they find that the applicant has met all of the provisions as required by 402.13.

By Mark P/David M 2nd. Vote 3-0

Susan asked Charles N if he has the original application for her to sign and he said yes and he will forward it to them. Susan welcomed them to town.

David M verified with Susan that the information they received via email pertained to the Dollar General application and not Miranda Simmons's application.

2. The next item on the agenda is the review of Miranda Simmons application for a used car auto dealership at 6 Dusty Lane. The Board had accepted it as complete at the previous meeting. Susan thanked her for waiting, to give the Board the time to deal with everyone on the agenda. Susan said the Board accepted everything is complete under Section 403. They will now work on the Review Criteria, Section 402.

402.1-Fee is paid, determined in 403

402.2-Standards in Section 801 and her narrative. Susan said they are reviewing this application as they are leasing the already improved property from Mr. Libby.

Motion that it meets the requirements of 402.2.

By Mark P/David M 2nd.

Susan suggested a friendly amendment because they need to give the reason why they said yes. Susan asked Mark P if he had seen the application before tonight and he said no, he made a motion to get it on the floor for discussion. Susan then asked if he was comfortable given that he does not know anything about the project as he hasn't reviewed the paperwork. Mark P said that he would like to be better informed yes, but if someone has picked out something that is a problem, that will come out in discussion.

Amend the motion to read: Motion that they have met the requirements of 402.2 by committing to construct the property in accordance with the stabilization standards of the erosion and sedimentation control law.

By Mark P/David M 2nd. Vote 3-0

402.3- Miranda had sent the Board amendments for 402.3, a wetland map from Maine Forrest Service.

Motion that applicant has met the requirements for Section 402.3 in that the applicant has submitted a map of wetland water bodies showing that there are no wetlands in the vicinity.

By David M/Mark P 2nd. Vote 3-0

402.4- Susan asked if they wanted to start with a motion to discuss this section. Mark P asked if there will be any additional paving. Miranda said there will be no paving and the landlord is in the process of moving the road and there will be gravel where the cars will be parked. Susan said her concern with this section is that the Board is reviewing Ms. Simmons Used Car Lot application; she is leasing a completed driveway and gravel pad which are both impervious surfaces. Since Miranda is not providing information on the impervious surface because she is leasing it based on the improvements being done, she will meet the criteria. Susan continued that it will come to a point that because it is not actually completed yet, it is not as presented. Susan thinks that they will have to look at the business itself, and then may have to put conditions on acceptance because some items provided by the lessor do not exist. Mark P said they could issue the permit when the improvements are complete. Susan said they had an issue with storm water runoff and the Dollar General application and the changes that Mr. Libby is making are considerable. Mr. Libby said that work he is doing will actually improve the water flow because previously it ran into Rt. 9 and will now drain to the back of the lot. Wilbur L said that in the MDOT permit, the state wanted the front elevation of his lot lifted so the water will come out of Rt. 9. Miranda said there is a copy of the MDOT Permit in her amendment.

Motion that applicant has met the standards for 402.4 based on the approved Department of Transportation entrance and driveway details issued to the lessor by the MDOT.

By David M/David J 2nd. Vote 3-0

402.5-Motion that we accept the requirements because they are using existing facilities and not making any changes.

By David J/Mark P 2nd.

Discussion: David M asked Charles N if since the current sewer is a residential sewer, it is acceptable for a commercial site. Charles N said that the requirements for a commercial sewer are normally less because there is less demand on the system. Susan verified with Charles N that the current system that he shows in his files is adequate for the commercial business.

Vote: 3-0

402.6-Motion that her response is sufficient to meet the requirements set forth in Section 402.6, stating that there will be portable fire extinguishers for every 3000 sq ft of building area and none will be more than 100 ft away and it is accessible to emergency vehicles.

By David J/Mark P 2nd.

Discussion: David J asked how close the nearest fire hydrant is and Wilbur Libby answered that it is in front of Rideout's Gardens, about 250 feet away.

Vote: 3-0

402.7 – Motion that evidence she has submitted demonstrates that she has met the requirements of 402.7 and that we accept them as such.

By David J/Mark P 2nd.

Discussion: Mark P said that it doesn't make sense that we have requirements that people comply with all state and federal laws. Susan said that is a subject for another time. David M verified with the applicant that they will be just adding fluids onsite and will be outsourcing everything else and Miranda S agreed.

Vote: 3-0

402.8 – Motion that her response has satisfied the requirements of 402.8 and they accept that they were met. **By David J/Mark P 2nd.**

Discussion: Mark P said it is an impossible standard to meet because used cars are going to leak and thinks they should add “within reason” to all of these things. David M said that the applicant did indicate in 402.7 that they would be addressing any hazardous waste, so that could also be submitted as evidence for 402.8. Susan DS agreed that most cars leak oil, but the concern for an application would be the amount that could leak. If they are talking about 24 or 100 cars, it could be a different situation. She continued that it is in the Ordinance in case there is an intense use. Miranda S said the vehicles will not be leaking oil and will be taken care of before they are brought to the lot. **Vote 3-0**

402.9 – Motion that the applicant met the regulations of 402.9 based on the application indicating 2 vehicles per hour which will not cause road congestion and also include the submission from the lessor that the driveway will meet the DOT standards. **By David M/Mark P 2nd. Vote 3-0**

402.10 – Susan said there was nothing else submitted other than the statement. Miranda S said that nothing else was asked for.

Motion that the applicant has met the standards for 402.10 indicating that there are no archaeological or historic significance or wildlife habitat and that the site plan does not indicate any substantive changes that would impact archeological or historic significance, wildlife or animal habitat.

By David M/Mark P 2nd. Vote 3-0

402.11 – Motion that applicant has met the standards for 402.11 indicating that there are no historic and scenic areas associated with the project and no areas identified by the Town Comprehensive Plan, evidenced by the Comprehensive Plan. **By David M/David J 2nd. Vote 3-0**

402.12 – Motion that the applicant has satisfied this portion as stated in all of the other portions of 402.12 and the evidence provided there. **By David J/Motion Withdrawn**

Motion that applicant has met the requirements set forth in 402.12 as there has not really been any change again in the layout of the facility, other than parked cars there and running occasionally and he does not see that there will be any significant noise, vibrations, fumes, dust or glare or any other problems there.

By David J/Mark P 2nd.

Discussion: David M asked if more trees will be coming down. Wilbur L said just the dead ones. There will be trees left for a buffer. Susan DS asked if the sign will be lighted and Wilbur L said no. David M asked if they plan to light the sign in the future and Miranda S said not at this time. David M questioned it being dark at 4:30 pm in December and Miranda S said she could use Christmas lights. Susan said that the impervious surface will increase to about 5400 sq ft. Susan asked Wilbur L if the motorized and un-motorized things in the yard now will be moved. Wilbur L said they are licensed trailers and are not on the piece of property housing the Auto Sales. He further stated that because he will not be using the garage any more, the other equipment will be gone. Wilbur said they will only be using the garage for the Salvage Yard business, tearing cars apart, change oil, etc., that they have done for years. Susan asked if the Junk Yard Permit covered that he had to dispose of the hazardous waste in a certain way. Wilbur L said they have to put it all in barrels and sent to people that have waste oil furnaces and the antifreeze goes to the Brewer Sewage Treatment Plant. **Vote: 3-0**

402.13 – Motion that they have met the requirements of 402.13 as exhibited by the discussion we have had on 402.1 through 402.12. **By David J/Mark P 2nd.**

Discussion: Susan said that this needs to be the part where they would put in any conditions. The Board agreed.

Original motion amended to add: Provided that the layout of the site is as indicated by the lessor in the application. Upon certification by the CEO that the improvements are complete, the permit can be issued.

By David J/Mark P 2nd. Vote 3-0

Susan welcomed her to business in Eddington. Miranda S said that she should have her Dealer License in 5 to 7 days. She has her inventory and as soon as the driveway is finished she is ready to open.

3. The Board will continue their discussion on the comparison between the 2012 and 2015 Zoning Ordinances. Susan asked if anyone had a chance to put together a summary for their sections. David M has his done. Susan will start sending reminders at the end of the week on the meeting because the minutes do not always get out early. David M passed out copies of his summary. Everyone was emailed copies of Susan's comparison. David M understands that the attorney said they have to do the comparison and they have one summary of the changes and he thought that that was all that was on the agenda. Susan said they need to do the comparison to determine which standards are more restrictive and create a checklist. They can then go to the Hughes application and specify any sections that are more restrictive. David M said that he did the summary on not necessarily what is more restrictive, but on the basis of what requires different evidence than was required in 2012 Ordinance. Susan said that they want to make it so they have all of the differences before they review the Hughes application again. Mark P said it would be good to have a punch list of what has changed. Susan said there are probable some things that have not changed and they do not have to go back over it. David M will go through everything the Board members have submitted to date and come up with a document listing all the changes so they can go by it to review the application.

NEW BUSINESS:

OTHER BUSINESS:

STAFF REPORTS: Charles N informed the Board that Mr. Steven Carr of 1069 Main Road, has a four acre lot that he wants to break into two lots, with one for his son. The lot size requirement according to the Ordinance is one acre. The problem Mr. Carr has is that he is in the Commercial Zone. This commercial zone has the Dollar General, Stinson's, the MDOT and the Post Office, plus 24 residential lots. Charles N said that according to the Ordinance, he cannot allow a lot to be created for a single family dwelling, even though he is surrounded by single family dwellings. Susan said that the idea was to not build more single family residences. She questioned whether this would be a variance request or an item for the Board of Appeals. Charles N said it could possibly be Board of Appeals. Charles N is looking for guidance from the Planning Board for this situation. Susan said they do not want to do spot zoning. Mark P said he cannot ask for a variance if they are creating it themselves and the idea behind commercial zoning is that over time the residences will be replaced with businesses. Mark P said that one was done on the other side of Rt. 46 and he thinks it was given a variance and was voted on and approved. He would not object to it, but doesn't see a basis for making an exception because someone wants it, but it is done all the time.

Hilma Adams asked what the zone was before it was made commercial and if it was grandfathered. Charles N said the lot is residential, but splitting it into two lots would not be grandfathered. Mr. Carr said that when the house was built, there was no zoning, until 1988 or 1989 when the first Comprehensive Plan was passed. He said the Comp Plan changed the lot size from one acre to 2 acres and the frontage from 100' to 200'. Mr. Carr needs to know if he can divide his lot and what route he would take to do it. Charles N said that Mr. Carr would provide him with a permit, Charles N denies it and it then goes to the Appeals Board. Mr. Carr asked if he should divide the property between himself and his son before he

does anything else. He said that since he has been there, a house trailer and a garage have been put in a few lots from him. Susan reviewed the Ordinance prior to 2012 and found that it contained provisions for single family dwellings and multifamily dwellings, but when the Ordinance was redone in 2012, that provision was not carried over. The Board will research this and get back to Charles N for the next meeting.

Susan asked Charles N about previous matters he had brought up to the Board.

1. He has not heard anything more about the towers.
2. In regards to the camp on Chemo Pond, he is not sure what they are going to do or if they can get financing. The owner said he would get back to Charles N. Russell said that there had been a fire at the camp.
3. He has not talked to Augusta yet regarding the livestock issue, but the property owner has brought in a couple more horses.
4. In a new matter, he is working with a lady that has a problem with the neighbors free range chickens that are coming into her property and digging up her garden and lawn because the Ordinance doesn't address it.

PLANNING BOARD COMMENTS: Gretchen emailed comments for this section of the Agenda. Susan read from her email: 1. Regarding tabling review of the stormwater item, the motion to table was because of new information received at the meeting, with no time to review it. In this case, it was two detailed drawings that differed from what we had already reviewed, and completely new information regarding phosphorus. While I was considering the phosphorus in relation to stormwater, it did apply to other items, and we probably should have tabled those as well. I do not want to set any precedent that new information can be submitted and voted on the same night. In addition, during my nearly ten years working for the Town of Hampden, I was a member of the Site Design Review Team, which met with applicants to go over their Site Plan designs to help them comply with the town's ordinance requirements. I was also one of the key coordinators for compliance with the Town's MS4 (stormwater) permit, so I do have quite a bit of knowledge regarding stormwater control and site design.

2. Mark Deroche public comment: While the information provided by the resident was interesting, it wasn't necessary. The applicant answered the question when he stated that the general store manager would work with the local disposal company to ensure that waste is properly sorted and disposed of as part of their business model.

3. I would like another update regarding the junk yards situation(s), please. Charles N said the illegal Junk Yard or Fox Hill, he has removed most of them and he is working on it. Russell S said that Paul Doten had been in touch with this resident. In regards to the illegal junkyard on Riverside Drive, Charles N has not approached Gary Fogg on that again yet. Russell S said that Paul Doten has said he will work with Charles N on all of these.

PUBLIC ACCESS: Theresa Woznik, 509 Riverside Drive, said that the reason she spoke out of turn was to inform the Board that Mr. Fogg has a junk yard on both sides of the road, but only the one across from his home is ever mentioned. Mrs. Woznik said that Tim Campbell's property is also an issue regarding junk. Charles N said that he is also the owner of the problem chickens.

ADJOURNMENT: Motion that we adjourn at 8:20 pm. By David M/Mark P 2nd. Vote: 3-0

Respectfully Submitted,

Denise M. Knowles