

Minutes
Planning Board
May 3, 2016

Members Present: Neil Schuster, Chairperson; Don Girouard, Rene Ittenbach, Peter Scontras, Michael O'Toole, Vangel Cotsis. Bob Hamblen, City Planner and Joe Laverriere, city engineer, in attendance as well. Absent: Marty Devlin

Workshop 5:00 p.m.

- **Discussion of the remand process as it relates to the appeal of Theresa Desfosses on the Bill Dodge Nissan proposed September 2013 plan amendment.**

B. Hamblen: As Board members will see from the documents submitted on behalf of applicant WWS Properties, LLC (Bill Dodge) and appellant Theresa M. Desfosses, as well as by City Attorney Tim Murphy, there's little that staff feels the need to add. Page 13 of the 11/24/15 Law Court decision states in part, "...remand the matter to the Planning Board for consideration of Desfosses's appeal on its merits." As Tim Murphy states in his April 12 memo, "...it is strongly recommended the Board use its first meeting to get reacquainted with the parties, the operative facts, and that it first reach a consensus on going forward procedure...I would strongly urge that the Board only address process and procedure at its May 3 meeting, and that it set full hearings on the merits for later meetings."

Tim Murphy, attorney for the City of Saco, opened with his talking points on how the meeting should proceed and its process.

Bill Dodge Appeal/First PB Meeting 5/3/2016

1st TSM will advise PB what's before them: It's a Remand, not a judgment that anyone failed, or made bad judgments, rather, the Law Court said Mrs. Desfosses never got heard, and her concerns never considered.

2nd. Bear in mind that this project was approved June 2013, and Mrs. Desfosses never challenged or appealed that decision. So, that approval stands and is lawful. What is being challenged is a post-approval, construction phase change in plans offered by Bill Dodge.

3rd: TSM briefly describe the proposed change. Addition of a reinforced fence.

4th That proposed change creates two questions for you on review:

- A. Did Bob Hamblen reasonably conclude that the proposed change was a minor change, or did he err in that regard?
- B. Did the proposed change reasonably address the concerns raised by the PB when it set Condition #11?

5th: Process at Hearing. First, recommend this get set up as the only matter heard at whichever night gets selected. Better for these parties so they can get all their evidence to you for consideration in a logical and organized means. More efficient, and it will allow the Board to fully consider matter without there being other parties sitting around waiting.

On QUESTION A. Board should have Bob Hamblen explain why he concluded that the application was minor. Hear his reasons, rationale; then ask Theresa D/Alan Beagle to state their reasons why it was not a minor change. Finally, hear from Bill Dodge why they feel it is a minor change. Board takes all that evidence in, hears it, discusses it, and reaches a decision which it votes on. Was it a major change or a minor change?

POSSIBILITY 1. If PB concludes it's a major change, Board will then have to act as the reviewing body of the proposed change: i.e. Board acts as the Section 1109 review body and asks Bill Dodge to present its proposed request, explain why it's making the request, and how the request addresses the need at hand.

POSSIBILITY 2. If the PB concludes it was a minor change, then the Board is then acting in an appellate capacity and it is reviewing Bob's decision under Section 1114 and it has to determine if Bob acted reasonably in reaching the decision that the change met Condition #11, or did he err.

Under either scenario we reach Question B, and the Board can take new evidence and testimony as to whether the change meets Condition #11, and is a reasonable plan change. Why can it take evidence?

1. Under Section 1109, if the Board is the reviewing body, it needs evidence to make its review.
2. If we proceed under Section 1114, that provision expressly states the PB acts de novo.

So, under either path, PB takes all evidence. The difference I think is in the order of presentation.

If the Board acts under Section 1109, Bill Dodge presents its proposed change, and why it thinks it solves/meets Condition #11. Bill Dodge has the burden of proof, and it must persuade the PB. Mrs. Desfosses would go second with her evidence saying that the change is not reasonable.

If the Board is acting under section 1114, meaning appellate review, then Mrs. Desfosses would go first, she would have the burden of saying why the change is not reasonable, and Bill Dodge would go second. Regardless of which path the PB chooses for Question B, the Board needs to give full time to both sides to make their case as to the proposed change. The PB should then freely and fully air out its discussion, and then should vote. It should explain its reasons for its vote, the basis why it's voting so that a clear record exists to support its decision, and from which appeals can be taken if necessary.

Don: Not to oversimplify this, but the direction to the planning board from the court, is for a remand for a hearing de novo. So I have a little problem with your first recommendation, that we make a determination whether or not Bob erred on calling this a Minor versus a Major change to a Planning Board approved Site plan. The heart of the matter is, that the court has said that you denied Mrs. Desfosses the ability to contradict and challenge the information that Bob used to make his decision. Not whether it was a minor or a major site plan, but whether the proposed fix was going to solve the problem. So it seems to me that the heart of the issue that we have been instructed to do a de novo

hearing is very simply, we hear the challenge to the technical adequacy of what was proposed by WWS Properties or whether or not it was going to fix the problem and make sure they complied with Condition #11. He has a problem with them trying to determine whether this is a minor or major Site plan. The challenge on effectiveness on what was agreed on, was that the change made, was it effective? Bob having erred is irrelevant at this point. The court gave the Desfosses appeal rights to challenge the information. **Tim:** you are absolutely right. The heart of the case, was that proposed change effective and did it solve the issue, as Condition of #11. No matter which way you determine whether major or minor review, it will be a de novo review whether it be on Sec.1109 or 1114. It only changes who is going to go first. Everyone will have the option to give their evidence. **Don:** To hear the Desfosses objection, do all parties reserve their appeal rights? **Tim:** Technically yes, but what would be gained? The planning board needs to determine whether it was an effective change, whether Bob erred or not. He will need to prove his decision. **Don:** What does that accomplish if we find that Bob erred? **Tim:** Then you would determine if Bob's judgment was reasonable. You will need to determine whether Bob's decision was major or minor as well as his decision on merits. We've been giving the planning board revisions to Articles 9, 10, and 11, so that future parties aren't burdened by the problems that Ms. Desfosses is facing. So we are trying to correct that. But we are proceeding under the ordinance as it is now, as it has been interpreted by the Law Court.

Mike O: Didn't the law court take that decision of major or minor out of it? But then the court says to review it on its merits, and it took the major/minor aspect right out of it? **Tim:** I don't interpret the language as them addressing that its major/minor, because you are going to take it up on its merits, either way. You are going to come up with a de novo review on the merits under either one. Because if you read in the beginning, the law court says that there is an appeal process through sections 1114 or 1109. **Mike O:** To me that says we are not acting as the appellant. We are not seeing whether Bob abused his credit. We are looking at this review as brand new. One of the things that they struggled with was that our zoning ordinance is very confusing. It's not a model of clarity. That is why we ended up with two Boards, each saying for its own independent reasons, neither of us have jurisdiction. Both Boards acted in good faith, and the law court said no, that the abutters have to have a place to go. They interpret that site plans are within this Board's jurisdiction. They want you to address site plan questions and they want a hearing on the merits. **Don:** what does it serve to determine whether Bob correctly determined it was a major or minor review? What really needs to be served is the appeal of an aggrieved abutter. So it was remand to us for a de novo hearing on the merits on what was proposed.

Tim: If you do that and you are leaning that way, then you should say on record, "we interpret that the law court meant that that first question is not to be addressed. Then Bill Dodge will then have their appeal rights from that determination, and say that they really should have had that major/minor thing resolved, and that Saco misunderstood the opinion. I am recommending that you hear all evidence.

Rene: Before we go any further with this review, I didn't make a connection until I saw Ms. Desfosses and Tina. I would like to disclose that my parents just purchased a home from the Desfosses, and own property at their location in Scarborough.

Neil: That brings up a very good question. In regards to Board representation, there were only 3 of the original Board members that participated in the decision 3 years ago. And we have a brand new member this evening, so where do we lie, as to who is appropriate to hear this.

Tim: It doesn't matter, because you will hear all new evidence. It'll be like we are transported back in time in 2013. Everyone has and will be brought up to speed with memos.

Rene: He feels he could remain impartial, but he leaves the decision to the Board on whether he should recuse himself from this review.

Neil: We need to offer it to both sides, because everyone should have a say.

Vangel: While we are making confessions, in his current professional capacity, he has had interactions with counsel on both sides of this issue. I feel it does not undermine my ability to be impartial, but I put it out there for any objections.

The Board consulted with all parties involved, Alan Beagle, David Hirshon, Tim Murphy, and the Planning Board members, and all parties were in agreement that both Rene and Vangel could remain impartial.

Alan Beagle, attorney for Ms. Desfosses: As Tim mentioned earlier, this is a de-novo hearing. Which means at the discretion of the planning board. I think that you are supposed to take new testimony and evidence and then you make the determination from that evidence. The planning board has to determine whether it is major, which they believe it is, or whether it is minor. The procedure to follow flows differently depending on whether it is major or minor. The ordinance requires greater information is needed before you make your determination on the merits. You can't rationally take testimony and evidence and not do anything. I posed several questions in my memorandum that I would like the answers on. I refer to my memos to the Board dated April 18 and 24, 2016 for details. It makes a difference for the next time to determine who goes first.

Mike O: You're talking about the criteria we are going to be looking at. If this appeal is only on one section, why do we need to look at everything? **Alan:** Not all the questions are applicable.

David Hirshon: Hirshon Law Group, attorney for Bill Dodge Motor Group: For background information on the history of the approval of the WWS Properties, LLC site plan approval, please refer to my April 19, 2016 memo. As for how to proceed with this remand, and what issues for the Board to consider, what are the standards of review and how should the appeal be conducted? Although Desfosses divided her complaints about the approval of the Site plan Amendment into multiple subparts, her appeal really comes down to two issues:

1. Issues on appeal.

- a.) Did the City Planner act within his sound discretion in determining that the amendment was a minor change to the site plan? The answer to this question effects the framing of the second issue
- b.) If yes, did the City Planner act within his discretion in approving the site plan amendment as a reasonable means of addressing Conditions #11 of the site plan approval? If no, should the Board approve the amendment as a reasonable means of addressing Conditions #11 of the site plan approval?

2. Standards of review

Both the Zoning Ordinance and the applicable statutes are silent as to the standards governing an appeal to the planning board. The Law Court held only that the City Planner's determination is subject to review by the Planning Board, but not what level of review is required. The mere fact that the Board's review may include "new evidence and testimony" (see section 1114), does not mean that the Board must make a decision from scratch, affording no weight to the City Planner's decision.

The Planning Board never heard the merits. The merits of the case are whether it's major or minor. Then it is the burden of proof. You will hear all the evidence at once. If minor, you must decide whether Mr. Hamblen abused his discretion. The burden of proof is Ms. Desfosses. If major then you are sitting in as Planning Board, and the burden is with Bill Dodge. You must make that decision

Mike O; Major or minor, the Law Court made the decision for the Planner.

David: The Law Court said it's okay to delegate to the City Planner to make a decision on major or minor. The zoning ordinance didn't allow for Desfosses to appeal. The Law Court is not saying that the City Planner was in error. Both the Zoning Ordinance and the applicable statutes are silent as to the standards governing an appeal to the Planning Board. The Law Court held only that the City Planner's determination is subject to review by the Planning Board, but not what *level* of review is required. The mere fact that the Board's review *may* include "evidence and testimony, does not mean that the Board must make a decision from scratch, affording no weight to the City Planner's decision. In granting site plan approval to WWS, the Planning Board expressly delegated to the City Planner the determination of whether a change was major or minor and the determination of whether to approve minor changes. The Law Court expressly approved this delegation, stating that it "furthers the purposes of the Ordinance by insisting that even minor deviations from the approved plans will be subject to municipal review, *not* compliance with zoning and building laws, *without unduly burdening the Planning Board*. It would render that delegation a nullity if the Board, on appeal, were to fail to give due deference to the decision of its delegated agent. It would also erase the distinctions made in the Zoning Ordinance between the treatment of minor changes and major changes. WWS submits that the proper standard of review in this situation is set forth by the Law Court as follows: "A party appealing a decision committed to the reasonable discretion of a State or local decision maker has the burden of demonstrating that the decision maker abused its discretion in reaching the decision under appeal. "An abuse of discretion may be found where an appellant demonstrates that the decision maker exceeded the bounds of the reasonable choices available to it, considering the facts and circumstances of the particular case and the governing law." "It is not sufficient to demonstrate that, on the facts of the case, the decision maker could have made choices more acceptable to the appellant or even to a reviewing court. Only if the Board concludes that the City Planner abused his discretion in choosing to review the site plan

amendment as a minor change should the Board act as an original decision maker in deciding whether to approve the amendment as a major change.

The burden of proof and the burden of persuasion are on Desfosses as the appellant. ("The party appealing an administrative determination ... bears the burden of proof at a zoning hearing").

3. Conduct of appeal.

WWS agrees with the recommendations of the City's counsel. That is, it makes sense for the Board to devote an initial hearing to ironing out the procedural issues. At a second hearing, the Board should give both parties, as well as the City officials involved in the initial decision making, a full and fair opportunity to present evidence and argument relevant to the issues set forth above. The hearing should focus on the evidence that was before the City Planner in September 2013 or that the parties, given the opportunity, would have put before the City Planner, on the ultimate issue of whether the site plan amendment was an acceptable response to the concerns raised by Condition #11 of the site plan approval.

Desfosses contends that the Board has to consider all of the 22 criteria set forth in section 1106 of the Ordinance, including, apparently, waste water, solid waste, drainage, traffic conditions, water quality, etc. The short answer is that section 1106, by its express terms, applies only to initial applications for site plan review. WWS's site plan was already subjected to review under these criteria when the Board granted site plan approval. Even if the Board were to consider the wall/fence amendment to be a major change, nothing in section 1109 indicates that the Board must reapply all of the section 1106 criteria to a site plan change. In the absence of such a mandate in the Zoning Ordinance, the Board may exercise its sound discretion in considering the impact, if any, of the wall/fence amendment on the factors that led to site plan approval in the first place. There is no need to overcomplicate this appeal.

Throughout her procedural position statement, Desfosses makes much of Condition #11 of the June 28, 2013 site plan approval. On page 3 of her memorandum, she states, "Desfosses asserts in her appeals to the Planning Board and the ZBA that Condition #11 was never satisfied...." Yet she concludes, on the last page of her memorandum, that she "does not believe the issues of WWS's satisfaction of Condition #11 is a critical undertaking for the Board, provided the hearing before the Zoning Board of Appeals on that issue proceeds in a timely manner."

In other words, Desfosses is seeking to have the critical issue of the interpretation and application of the Planning Board's conditions resolved, not by this Board, but rather by the ZBA. In order to ensure that the ZBA reaches this issue in advance of the Planning Board, Desfosses strives to tie the Planning Board in procedural knots, by asking (though failing to answer) no fewer than 36 procedural questions, including multiple subparts. She contends that the Board "must" address every one of these queries before commencing a hearing.

I have provided answers to those questions to this Board and for the record and for the sake of not delaying this meeting any further. See attached memo dated April 26, 2016.

Don: If we are an appellant, we need to only look at the evidence that Bob had in front of him at that time. **Tim:** I agree, but you first determine whether it is a major or minor. **Alan:** This is a de novo, so you will hear all the evidence. **Tim:** Don, I understand, but the law court is saying that the planning board needs to hear all evidence.

Alan: It is clear that this is a de novo hearing, not just the evidence that Bob had. This is a new hearing, so you take new evidence. What's unclear is what criteria of evidence do we bring forward?

Peter: He wasn't on the planning board when the Bill Dodge project was first heard, so this is a little confusing. You are going around and around deciding whether it is a major or a minor. We only need to know what Bob knew at that time. New evidence will only confuse everything.

Alan: That is why it is de novo. You will hear all the evidence. You won't be limited.

Neil: I've heard different interpretations in the law courts. A de novo hearing we will hear all kinds of evidence that Bob never even heard. We will be hearing a new site plan. We shouldn't hear anything more than what Bob had at the time.

Rene: He interprets not whether Bob made the wrong decision, but was that fence a major or minor decision. It has nothing to do with Bob. **Mike O:** It makes a difference who has the burden of proof. **Tim:** It changes who goes first and Sec. 1114 appellant. It will determine who can take it up to the superior court. It is no injury to anyone if we hear the evidence.

David Hirshon: Desfosses would go first, they are the appellant.

Alan: He would like his questions answered, which will determine who goes first.

David H: Desfosses is before the ZBA on June 6. He would like the planning board to give the ZBA conditions, because if either Board answers Condition #11 differently, that will cause a problem.

Alan: Again, he would like his questions answered. **Bob Hamblen:** The Board can't answer them tonight. **Tim:** the attorneys can give their answers.

Neil: Tim's process and outline dated 5-3-16 gives us direction. **Don:** Do we make a major/minor decision first? I will defer to Tim's advice. **Vangel:** He is comfortable with Tim's advice. It's important to hear from Bob, but not to separate old and new information.

Mike O: Tim's talking points are valid. He agrees they should vote first whether major or minor. The Board is in agreement to discuss at the next meeting whether this should be major or minor, as stated in Tim's memo dated May 3, 2016.

b. Sketch plan review of a proposed 17,500 s.f. warehouse at 829 Portland Road. Applicant is Chicopee Developers LLC. Tax Map 59, Lot 13. Zoned B-6.

Hamblen: The applicant proposes a new 17,500 s.f. building on the parcel at 831 Portland Road. The applicant acquired this 3.26 acre parcel, and the abutting 829 Portland Road (0.19 acre) in January. There is a principal structure on each – actually two, with tenants, on the 831 parcel, where the new building is proposed.

A plus is the proposed closure of three existing curb cuts, while a new one is proposed so that the four existing would become two upon completion. There may be opportunity for more on closure activity, but further detail will be necessary on the plan.

One parking space per 500 s.f. of total floor area is required for a warehouse use; 25 are shown on the plan, 35 are required. Unknown as to whether any portion of the building would be used for office space. Exterior elevations will be required as part of the site plan application, as the building will be subject to design review.

There is over 10,000 s.f. of soil disturbance proposed, so the project is subject to a stormwater management plan. Traffic volume is unknown, though likely to be fewer than 400 trips per day, so a traffic impact analysis would not be required if that is the case – though an estimate is.

A 40 foot wide landscaped buffer strip is required for parcels along Rte. 1. The northerly most building on the 831 parcel has a front setback of 18 feet; the buffer is required for the remainder of the parcel, 200+/- feet.

Mill Brook Business Park abuts to the south. A 50 foot wide right of way is included in the business park, allowing for a vehicular connection to the 831 parcel. The applicant's plan does not call for utilizing the possible connection – should it?

Planning Office will recommend a fee in lieu of building sidewalk along the Rte. 1 frontage. Normandeau Associates has visited the site to review the wetlands delineation, and has asked for a re-visit by Mark Hampton Associates.

Attached, along with staff comments, are a plan of Mill Brook Business Park, and an excerpt of a record drawing of Rte. 1 showing 823-833 Portland Road, curb cuts and parking shown.

Bill Thompson, BH2M: The applicant is the owner of 3.5 acres that include 3 buildings with tenants in place. One new curb cut will be provided to the new building, and the remaining 3 will be closed. The building will be 100 x 175 (17,500 s.f.). The site is relatively flat with a slight grade to the south and southeast. Surface water will be directed with the required management at the rear of this property. No wetland impacts. Site lighting will include pole mounted lamps along the parking area and wall pack type lighting along the building.

Don to the Board: Regarding the design standards, we should re-visit. This building and the recently approved Shed Happens, does not meet the design standards. **Bill:** It will have a fence around as well as gated. **Rene:** should have some landscaping along the front of the building.

Bill Mann: what are the plans for the old Brown Pontiac building? **Kevin Beaulieu:** It will be leased to a truck repair company. They will rework the front.

c. **Zone Change – B-3 Zone; to allow Accessory Sale of goods manufactured on the premises. And Light Industry:**

Bill Mann: B-3 zone goes along the shoreline parcel on Lincoln St. He has a client who is interested in 2 properties that have river access. The company is a manufacturer, wholesaler and retailer of Kayaks and Canoes. One location is at 44 Lincoln Street and the other is on Front Street. I am requested the two uses be added as a permitted use in the B-3 zone.

Rene: One of the locations is above the dam and the other location is below the dam. Front Street would be perfect for Kayaks, but not good for retail. Pepperell Square would be better. **Bob:** the 2011 Comp Plan speaks of the Front Street area, which would be a better idea. **Rene:** You will need to make sure there is good ventilation depending on the material used. **Don:** Instead of jumping to B-3 zone, maybe we should make it a Conditional Use. **Bill:** He would be fine with Conditional Use.

d. Zone Change – to allow Contractors as a permitted use in the I-1 Zone. To also change Contractors from a permitted use in the I-3 Zone to a Conditional Use in the I-3 Zone.

Bill Mann: We have been working with a prospect that is interested in locating their contracting business in Saco Industrial Park – specifically at 71 Industrial Park Road. Currently, this use is permitted in the I-3 zone (Mill Brook Business Park), but not in the I-1 zone (Saco Industrial Park). All equipment for a contracting business must be either screened by a tree line, hedge row, other acceptable screening or kept inside a building. Given the intention that the Mill Brook Business Park be focused on attracting clean, green or light manufacturing businesses, it is requested that the following two zone changes be made. I-1 zone to allow the following as a permitted use. – Contractors
I-3 zone to change Contractors from a permitted use to a Conditional Use.

I have a client who is an Excavation Contractor who is interested in the lot that is next to Garland Mfg. It has a 300ft drive. They would build a 4-bay flex building. It is an unusual lot that has a long access to get into it and you need the right buyer for it, which I think this use is. The Board agreed it made sense to change the zone.

7:50p.m. Regular Meeting

1. Minutes of April 19, 2016

Peter: He would like to see more written in the minutes, regarding what Bob and Joe Laverriere talked about on Goosefare Brook, and how through the process, it cleans itself. I think that that kind of explanation should be captured somehow. To be able to refer to the essence of it later on.

Mike O: I think that if there were to be an appeal, it would be on Stormwater. That was one of the discussions on the Juniper Knoll II project.

Joe Laverriere, city engineer: I think we were talking about monitoring, and what DEP has done to Goosefare Brook. In particular, the worst areas are in and around the Rte. One area. We have a lot of impervious area that wasn't treated at all, and it's a direct shot to the Brook, so when they do their sampling they pick it up right away. Whereas it moves further down, there is some uptake of nutrients, but that there are better areas, like some of them that come out of Old Orchard that are very clean. So there is more of a delusion factor that takes place. When they were sampling Goosefare Brook further down that's not as troublesome in terms of what their getting hit for in regards to pollutants. So it's not so much that the brook is miraculously cleaning itself up along

the way, I think it's more of a delusion of an impaired area that is blending in with a better section of the watershed. You have areas above, a not so good area in the middle, and we have another good area below.

Please refer to the minutes of April 19, 2016 for revisions made to the minutes, regarding the discussion of Stormwater between Bob and Joe Laverriere.

Mike: I move to accept the minutes of April 19, 2016, seconded by Peter. Motion passes. 6-0

2. Public Hearing: Subdivision and site plan review of a proposed amendment – a conversion to a 20-unit Elder/Disability Housing Facility – to the 10-unit multi-family dwelling off Woodland Avenue approved June 11, 2013. Applicant is Kerry Brothers, Inc. Tax Map 40, Lots 48, 50, 54. Zoned B-2d.

Hamblen: The Board granted approval for a ten-unit multi-family dwelling (apartments) on this property off Woodland Avenue on June 11, 2013. The applicant returned to the Board on Feb. 17, 2015 to amend the plan: rather than the approved two 4-units and a two-unit, the Board agreed with the proposed five two-family units.

The economics of the project don't work out, in part due to a required upgrade of the water main on Horton Avenue. The hope is that a twenty unit Elder/Disability Housing Facility will not only meet Ordinance requirements and be financially viable, but also meet a need for those 55 years of age and older, and for the disabled.

A single curb cut from Woodland Avenue will provide access to the project. Utilities all public, an undertrained soil filter on site will discharge to the public stormwater system in Horton Avenue. No open space is proposed, so an impact fee would be assessed for that and recreational facilities.

Average Daily Trips are projected at 69, a minimal number of trips when compared with the 24,000+/- that Main Street sees each day (2014 data). The City's experience with nearby Multi-Family Dwellings and Elder/Disability Housing Facilities – Fieldview Estates, Shannon Woods, Academy Place and the VOANNE housing off Smith Lane – has been positive: close to services and access to I-195.

Bill Thompson, BH2M, is the project manager.

The applications for Conditional use permit, Site Plan Review, Preliminary and Final Subdivision and Design Review were found to be complete at the April 9 and June 11, 2013 meetings. The conditional use permit would fall by the wayside here, as an Elderly/Disability Housing Facility is a permitted use in the B-2d zone, and the multi-family dwelling use would become moot .

The use approved by the Board in 2013 – a conditional use, multi-family dwelling – is being set aside in favor of Elder/Disability Housing Facility.

The previous applications have been through the full site plan; subdivision and design review processes, so that stormwater, traffic, lighting, erosion and sedimentation control, landscaping and other issues have been fully addressed.

The current proposal would drop back to 6,520 s.f. of building footprint, or 9.5% of the parcel, and 14,817 s.f. of total impervious, 22% of the parcel. Accordingly, per Mr. Thompson's 4/12/16 letter, the size of the stormwater soil filter will decrease.

We have a graphic of the proposed exterior elevations submitted as part of the sketch plan; we've asked for confirmation that this exhibit remains the case. At 164' x 40', this is a large building.

The applicant should respond to the compatibility and scale standards found in the standards for site plan and design review, respectively.

Don: I move to find the application for Site plan and Subdivision review to be complete, seconded by Peter. Motion passes 6-0.

Bill Thompson, BH2M: The applicant has chosen to propose a different use for this property. Senior Housing seems to be in great demand. The density for this use will allow developing 20 units. There isn't a lot of site changes. The access drive will remain in Woodland Ave. the required parking will be reduced from a required 20 spaces to 10 spaces, with two guest parking spaces. This change will greatly reduce the amount of impervious area resulting in a smaller Stormwater Soil Filter. Landscaping and screening will not change and we will be able to pull the building further away from the abutters to the south. There will be both 1 bedroom and 2 bedroom units, with square footage from 5-700 sq.ft.

Don: Will this be independent living? **Bill:** Yes.

Mike O: I move to open the public hearing, seconded by Rene. Motion passes 6-0.

Peggy Arenstam, Fieldview Estates: They are interested in this proposal. They wanted to know the location.

Bob H: He gave the description of "technical disabilities. There are 3 levels of care in the zoning ordinance: Elder/Disability Housing Facility; "Elder/Disability Housing Facility – Limited Service"; and "Elder/Disability Care Facility – Full Service". This use falls under just Facility.

Mike O: I move to close the public hearing, seconded by Rene. Motion passes 6-0.

Peter: I think that senior housing is great for that area. We don't have enough senior housing. **Don:** This property is zoned as B-2d. It has a lot of residential in this area, so this is a good use. **Bob:** Conditions of Approval: Joe Laverriere' memo from April 21st still needs to be met.

Don: I move that the Board grant approval for the amended site plan for the Elder/Disability Housing Facility proposed by applicant Kerry Brothers, Inc., based on the attached Conditions of Approval and Findings of Fact dated May 3, 2016, with the condition that applicant satisfies all of Joe Laverriere' memo dated April 21st, seconded by Rene. Motion passes 6-0.

Don: Move that the Board grant approval under the provisions of the Saco Subdivision Regulations for the amended final plan submitted for the twenty (20) units Elder/Disability Housing Facility proposed by applicant Kerry Brothers, Inc., based on the attached Conditions of Approval and Findings of Fact dated May 3, 2016, with the condition that applicant satisfies Joe Laverriere' April 21 comments, seconded by Peter. Motion passes, 6-0.

Meeting adjourned at 8:30pm

Respectfully submitted by,

Maggie Edwards, Board Secretary