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PLANNING BOARD

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Paul Mattor, Chair  
Joe Ponzetti, Vice Chair  
Peter Lovell  
Kevin Flinner  
Heather Sullivan  
Trevor Hustus  
Jessica Brackett  
Bruce Wishart, Alternate

**Minutes of Planning Board Meeting 11 October 2017**

**Call to Order:** A quorum being present, the regular meeting of the Hollis Planning Board was called to order at 7:02 PM by Chair Paul Mattor.

**Roll Call** - Present: Paul Mattor, Chair; Joe Ponzetti, Vice Chair; Kevin Flinner, Trevor Hustus, Jessica Brackett, Bruce Wishart; Martha Turner, Secretary; Mike Seely, Select Board; Bob Cyr CEO.  
Absent: Peter Lovell, Heather Sullivan.

**Review of Minutes:** Motion was made and seconded to approve the minutes of 27 September 2017. Motion carried.

**Correspondence:** Two letters from Fire Chief Chris Young, regarding properties on Moderation St.

**Reports:** Mr. Cyr reported that his office continues to be busier than last year, and they are moving along on resolving the illegal subdivision. Mr. Mattor apologized to Mr. Cyr for a misunderstanding at the last meeting regarding the date of submission of Mr. Lenkiewicz's building permit vs. date of submission of his Shoreland Zone Permit application.

Mr. Mattor reported that the Long Range Planning Committee is still active, and suggested asking them to send a representative to give an up-to-date report to the Planning Board. The secretary will follow up. Mr. Wishart asked about the Planning Board's role with the Long Range Planning Committee. Mr. Mattor read from the 1984 Planning Board Ordinance: "The board shall prepare a Comprehensive Plan as defined by 30 MRSA #4961."

**Old Business:** Ed Lenkiewicz #2200-0200 Shoreland Zone permit, 15 Moderation Street. Mr. Mattor asked the board members to review items 1- 8 on page 5 of the Hollis Shoreland Zoning Ordinance.

1. "Will maintain safe and healthful conditions". Mr. Ponzetti noted that this is a residence, not a commercial property. The Fire Chief has written a letter indicating that he sees no safety issues with rebuilding a new residence within the old footprint. Mr. Cyr stated that the Fire Chief has also written a letter regarding serious safety issues with the building next door at 17 Moderation St. Mr. Ponzetti emphasized that this issue is the town's responsibility, not the applicant's.

**Mr. Ponzetti made a motion that there is no need to add any conditions to this item; that the Fire Chief's letter of approval will suffice. Motion was seconded. Motion carried 4-1-1.**

2. "Will not result in water pollution, erosion, or sedimentation to surface waters." Mr. Cyr noted that State statute addresses the prevention of runoff during construction, including installation of an erosion barrier to ensure that runoff does not leave the property.



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**Mr. Ponzetti made a motion to require erosion control during construction. The motion was seconded and discussed. Mr. Cyr emphasized that before the beginning of any type of work on this property, erosion control measures must be in place. If not present, this would be a violation of the conditions of approval. Motion carried 5-0-1.**

3. "Will adequately provide for the disposal of all wastewater." A professionally designed septic system has been provided by Mr. Lenkiewicz, so no further action is required for this item.
4. "Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat." This construction will not have any such impact.
5. "Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters." This construction will have no impact on access.
6. "Will protect archaeological and historic resources as designated in the comprehensive plan." Mr. Mattor suggested that any artifacts would have already been removed.
7. "Will avoid problems associated with flood plain development and use." Mr. Lenkiewicz stated that the property next door to his is in the flood plain, but his property is not. He has submitted a professionally prepared site plan.
8. "Is in conformance with the provisions of Chapter 17, Land Use Standards". Discussion at this point moved on to a review of Chapter 17 of the Shoreland Zoning Ordinance.

Board members reviewed each individual item under SZO Chapter 17, Land Use Standards.

17.1 Minimum Lot Standards: "the same as the zone in which it lies as specified within the Hollis Zoning Ordinance." This is indeed a non-conforming lot of record within the Town of Hollis, and the Board of Appeals has granted the necessary relief from setback requirements.

17.2 Principal and Accessory Structures. The proposed building will be a single-family residence, with no accessory structures, and will not exceed 35 feet in height.

Mr. Flinner referred to Section 17.2.4. of the SZO: "The total footprint area of all structures, parking lots and other non-vegetated surfaces within the Shoreland or Resource Protection Zones shall not exceed twenty (20) percent of the lot or a portion thereof; located within the shoreland zone." He noted that the variance granted by the Board of Appeals does not consider this percentage, but deals only with the setbacks. Mr. Mattor agreed, emphasizing that BOA judgment dealt only with setbacks. The plans submitted by Mr. Lenkiewicz would result in 21% coverage, which the board determined not to be unreasonable.

17.3 There are no piers, docks, wharves, bridges, etc.

17.4 There are no campgrounds.

17.5 There are no individual private campsites.

17.6 If approved, this permit will include a condition that prohibits commercial or industrial uses.



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- 17.7 Parking Areas. The property in question has an easement for off-street parking. If approved, this permit will include a condition that prohibits on-street parking.
- 17.8 Roads and Driveways. The property in question includes an easement for driveway and parking.
- 17.9 Storm Water Runoff. N/A
- 17.10 Septic Waste Disposal. The applicant has provided a professionally designed septic system plan.
- 17.11 Essential Services. N/A
- 17.12 Mineral Exploration. N/A
- 17.13 Agriculture. N/A
- 17.14 Timber Harvesting. N/A
- 17.15 Clearing or Removal of Vegetation. The lot has already been cleared.
- 17.16 Erosion and Sedimentation Control. State statute addresses the prevention of runoff during construction, including installation of an erosion barrier to ensure that runoff does not leave the property.
- 17.17 Soils have been tested and determined to be suitable.
- 17.18 Water Quality. A drilled well is planned, and waste water will be contained by the septic system.
- 17.19 Archaeological Sites. There is no known archaeological value to this site.

Board members discussed the term “non-conforming lot.” The SZO, page 15, defines a non-conforming lot as follows: “a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.”

SZO Section 14.5.1, page 26, addresses non-conforming lots as follows:

“A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage, and other State and local ordinances can be met. Variances relating to setback or other requirements lot area, lot width or shore frontage shall be obtained by action of the Board of appeals.”

Mr. Lenkiewicz stated that when he originally met with the CEO eleven years ago, the CEO did not mention any time limit restrictions for rebuilding on the lot. He emphasized that he has been paying taxes on a buildable lot for the past eleven years, and stated that he was assured at the time, by both the CEO and the assessor, that he would be able to rebuild as long as he stayed within the original footprint. Mr. Lenkiewicz also emphasized that when he purchased the property, the existing building had already been removed, having been boarded up for decades, attacked by an arsonist, and declared a public safety hazard.

Board members referred to SZO Section 14.3.3., page 25, “Reconstruction or Replacement.” This section begins as follows: “Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or



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destroyed, regardless of the cause, by more than fifty (50) percent of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months.” Board members discussed the concept of grandfathering.

Board members discussed the fact that the Certificate of Variance issued by the Board of Appeals refers to the Hollis Zoning Ordinance rather than the Shoreland Zoning Ordinance: “The request was for a variance from the front and sideline setbacks as required in Article 5.5.2 of the Hollis Zoning Ordinance.” Article 5.5.2 specifies the frontage, setback and coverage standards for single-family housing in the RR3 zone. Mr. Ponzetti noted that, even though this statement refers to the Zoning Ordinance and not the SZO, the setback requirements are the same. Section 17.1 of the SZO, Minimum Lot Standards, states “shall be the same as the zone in which it lies as specified within the Hollis Zoning Ordinance.

Mr. Lenkiewicz emphasized that he believes he has done his due diligence in pursuing his building permit. He has the approval of the Saco River Corridor Commission, and the Hollis Board of Appeals, his plans have been endorsed by his abutters and the previous CEO, as well as by a member of the Buxton-Hollis Historical Society. He noted that he only wants to bring the property back to the way it was, and to encourage the revitalization of the neighborhood. He stated that other properties in the area are also in need of attention, such as the unsafe property next door, as well as the Odd Fellows Hall across the street which has been abandoned for years.

Mr. Ponzetti stated his belief that the intent here is to be reasonable and interpret the ordinances in a reasonable way that will benefit the Town of Hollis. He stated his belief that there is a way to interpret these rules to allow this shoreland permit to be approved. He stated his belief that, as part of the responsibilities of a Planning Board, the members have a lot of leeway in their interpretations. He expressed his concern that the Board is obstructing this effort, and hopes that members can be a little more flexible.

Ms. Brackett concurred, stating that the value of the entire village area will be increased by the proposed building. Mr. Hustus also expressed his belief that Board members are being obstructionist. Mr. Hustus made a motion to approve Mr. Lenkiewicz’s Shoreland Permit, as requested. The motion was seconded. After lengthy discussion, Mr. Hustus rescinded his motion.

Mr. Ponzetti suggested reviewing the variance appeal process on page 7 of the SZO. He stated that the Board of Appeals has the right to grant relief from Chapter 17 of the SZO, and as long as Chapter 17 is met, then the Planning Board should be able to grant the requested permit. Mr. Flinner stated that he concurred that the Board of Appeals has granted the variances as requested by the applicant, and that due diligence has been done. Mr. Mattor emphasized that the Planning Board has the obligation to maintain the integrity of the ordinances. The codes are the will of the voters, and the Planning Board cannot grant relief or variances.



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Members discussed the Board of Appeals' Letter of Judgment, dated September 14, 2017. The letter states: "The Board determined the lot is a lot of record." Questions were raised concerning the BOA's definition of "lot of record." With no specific definition listed in the SZO, the following definition from the Hollis Zoning Ordinance is referenced: "Lot of Record: a parcel of land, the dimensions of which are shown on a document or map on file with the county Registry of Deeds or in common use by the Town of Hollis or county officials."

Mr. Mattor suggested seeking clarification from the Board of Appeals, as well as interpretation by the town's attorney.

Mr. Mattor requested a vote on each of the eight individual items listed on page 5 of the SZO, Section 1.4 "Procedure for Administering Permits." Mr. Ponzetti recused himself from these votes, noting that his wife is a member of the Hollis Board of Appeals. Mr. Flinner made each motion, and each motion was seconded individually. The votes are as follows:

1. Safe and healthful conditions: Based on input from the Fire Chief and the CEO, this condition has been met. Approved 4-0-2.
2. Pollution, erosion, sedimentation: Controls will be in place at all times during construction. Approved 4-0-2.
3. Disposal of wastewater: Septic system has been professionally designed. Approved 4-0-2.
4. Wildlife habitat: Not applicable. Approved 4-0-2.
5. Shore cover and access: No impact. Approved 4-0-2.
6. Historic resources: Not applicable. Approved 4-0-2.
7. Flood plain: Not in the flood plain. Approved 4-0-2.
8. In conformance with Chapter 17: Approved 4-0-2.

**Old Business:** Review of Planning Board Ordinance – tabled.

**New Business:** None.

**Public Comment:** Sam Snellings, owner of properties at 11 and 13 Moderation Street, in support of Mr. Lenkiewicz's plans for 15 Moderation Street. He noted that this application has been in process for over a year, and he expressed his hope that the Planning Board members will stop pushing this away. He emphasized that everyone here is a representative of the Town of Hollis.

**Next Meeting:** Wednesday 25 October 2017.

**Adjourn:** The meeting was adjourned at 9:15 PM.

Minutes Submitted by Martha Turner, Secretary  
Approved by Planning Board 25 October 2017