

**Bridgton Planning Board Meeting Minutes  
Downstairs Meeting Room/Virtual**

**October 6, 2020  
5:00pm**

<b>Board Members</b>		<b>Staff Member</b>	
Deb Brusini, Chair	<b>X</b>	Brenda Day, Code Enforcement	<b>X</b>
Ken Gibbs-Vice Chair	<b>X</b>	Erin O'Connor, Admin Asst., Staff	<b>X</b>
Greg Watkins	<b>X</b>	Linda LaCroix, Dir. Of Comm Development	<b>X</b>
Dee Miller	<b>X</b>		
Dan Harden	<b>X</b>		
Mike Figoli-Alternate	<b>X</b>		

**Call to Order**

Deb Brusini, Chair, called the meeting to order in the downstairs conference room at 5:00 pm on October 6, 2020.

**The Pledge of Allegiance**

**Approval of Minutes:**

September 15, 2020

**MOTION:** Dan Harden moved to approve the minutes of September 15<sup>th</sup> with the one correction as stated. Second by Greg Watkins. **MOTION CARRIES 5/0**

**Item #4 Old Business**

**4A. Middle Ridge Subdivision Phase II**

**Map 14 Lot 14**

**Findings of Fact and Conclusions of Law**

**MOTION-** Dan Harden moved to accept the Findings of Fact and Conclusion of Law for Middle Ridge Subdivision Phase II, Second by Ken Gibbs. **MOTION CARRIES 5/0**

Applicant asked that his plans be endorsed by the Planning Board moving forward, Board agrees.

Dee Miller resolved that the Board continues to sign plans as they are approved, Second by Dan Harden. **RESOLUTION CARRIES 5/0**

**4B. Hotel Bridgton**

**Procedural Vote**

Deb Brusini explained this is simply a procedural vote to determine what the next proceeding will be for the Hotel Bridgton.

## **Recusals-**

Dan Harden chose to recuse himself due to his prior presidency on the Chamber of Commerce, who endorsed a Hotel coming to Bridgton.

Town Council, Aga Dixon explained that a vote is not necessary for recusals, being that this is not a question of statutory conflict of interest (meaning personal or financial interest in the matter), but only a question of bias. Bias meaning individuals due process rights under the constitution.

Courts have clarified that if an individual has bias against a member of the board or a project because of prior statements or activity related to that project than they should not participate in proceedings, or vote.

It is suggested that in this instance, if any member has felt bias before becoming a member of the Planning Board during these proceedings, then they should recuse themselves.

It is also suggested that any new member to the Board will need to review all proceedings and video in order to participate.

Mike Figoli: Has recused himself because he has not reviewed any of the material.

- Conversation ensued between town council and Greg Watkins:

*Greg Watkins:* Requested interpretation from Town council on actions he had taken part in while sitting on another Board. The Question being, does that weigh in on this effect?

*Aga Dixon:* Explained the effect of said actions, because this is a complicated and lengthy procedure, she does not want to see any due process violations to undermine the proceedings. Allegations of bias are taken very seriously by the courts, if any evidence arose it would invalidate the entire Board as a whole.

*Greg Watkins:* Questioned his actions as a prior member of another Board. The actions taken as a member of another board are exactly that, acting as a board and not as a unilateral type of an individual opinion. Mr. Watkins talks about specifics. As a former Chairman, a piece of land was authorized by the Board, which later came up as being involved in this project. Mr. Watkins questioned whether this is going to cause a problem.

*Aga Dixon:* The situation explained, a land transaction, is one step removed from the type of bias the court has indicated. However, if you engaged in the transaction knowing what it would lead to and you were in support of it, then you should recuse. On the other hand if you engaged in that transaction as your duty as a select board member and had no idea what was to come of it, then that does not lead to a place where you carry a bias.

*Greg Watkins:* at what point does a breach of confidentiality in the Executive session become grounds of evidentiary bias?

*Aga Dixon:* What happens in executive session stays in executive session. It is not allowed to be publicly disclosed.

In conclusion Greg Watkins decided to not recuse himself.

- Town council discusses procedural matters.

One or more of the Board members was heard to have been in support of the project before becoming part of the Board. No evidence to date has been provided in respect to that allegation. If any evidence by Attorney Lourie does come forward, then the board will have to revisit the question. The allegations will be addressed if and when necessary.

Town Council believes taking up the amendment order at this time would cause procedural complications. Therefore, the Board should schedule a subsequent meeting for the remand order to discuss the evidence that has already been submitted in the record and issue a supplemental decision. At that time, the Board would only be looking at what work would be proposed in the stream protection zone, and what the term filling means per page 27 & 28 of the Land Use table within the Shoreland Zoning Ordinance. The decision to be made is whether or not filling is happening in the stream protection zone.

The court remand is instructing the Board to determine whether or not there is filling. If so, the board would need to amend their approval and to take that into consideration.

Attorney Mark Bower stated his recommendation on this procedural matter. Mr. Bower stated that the amendment would address and eliminate these two allegations of filling. He believes the board could go straight to the amendment order and skip over the remand order.

Attorney Bower has proposed that the Engineer to the project be allowed to attend the next meeting to explain what activity would likely occur and answer any factual questions that might come up.

Town Council recommended the board decline Attorney Bower's invitation to have the engineer answer questions by the Board. Parties will have the opportunity to submit their oral arguments before deliberations.

**MOTION:** Dee Miller moved to schedule a meeting to address the remand order from the superior court addressing the Hotel Bridgton, Second by Ken Gibbs. **MOTION CARRIES 4/0**

**MOTION:** Greg Watkins moved to schedule this remand for the next regularly scheduled meeting on October 20<sup>th</sup>, 2020 with the deadline for any written legal briefing being October 13<sup>th</sup>, Second by Ken Gibbs. **MOTION CARRIES 4/0**

**MOTION:** Dee Miller moved to deny the request for legal council to examine new planning board members for bias under oath, Second by Greg Watkins. **MOTION CARRIES 4/0**

- Noted for the record that legal council does not have the right to examine new Planning Board members under oath.

#### **4C. Marks Lawn and Garden Map 6 Lot 24H 688 Portland Rd.**

Conversation between the board and the applicant ensued. Questions regarding parking, lighting, and road maintenance were answered by the applicant as well as comments made by the Fire Chief. Applicant expressed that the proposed second parking area will no longer be part of the project.

Board voiced concerns about the broad range of uses that the proposed venue will allow. CEO explains that proper licensing and policies for each event will need to have prior approval.

Board, applicants, and CEO came to a consensus that each event will require approval through CEO's office prior to the event. Applicable licensing will also be mandatory, depending on each event.

***Site Plan Ordinance Deliberations:***

Items 1-2- No Comment

Item 3- Condition that the applicant meets the recommendations of the Public Works Director, which are the single entry and exit. The road also needs to be maintained for the level of traffic.

Items 4-11- No Comment

Item 12- Condition that the Fire Chiefs recommendations are met

Item 13-17- Met

Items 18-19- Not applicable

Item 20- Noted that the applicant needs to stay mindful of the noise level regulations in the Town Ordinance

Item 21- Met

Item 22- Condition that the applicant must require at least one ADA compliant porta potty by the lessee.

Items 23- 24- Not applicable

Mike Figoli proposed a summary concerning uses. In addition to what the code enforcement officer has stipulated with marijuana, Uses will be restricted to destination events. Events that require licensing, admission events, or rotating client events, will need to go before the CEO to determine what more is required. Normal events, such as garden shows would not be included.

**MOTION:** Greg Watkins moved to approve the applicant as meeting all the site plan standards with the following conditions: parking required as stated, entry and exit with traffic conditions as stated, ADA condition for porta potty as stated, all fire chief recommendations be met, and uses as described by the Board and the CEO. Second by Dan Harden. **MOTION CARRIES 5/0**

***Land Use Ordinance Deliberations: Outer Corridor***

Items 2-6- No Comment

Item 7-8- Not applicable

Item 9- Met

**MOTION:** Dee Miller moved that the applicant meets all the standards in the land use ordinance and that the use will be described precisely in the Findings of Fact and Conclusions of Law, second by Dan harden. **MOTION CARRIES: 5/0**

**5A. Mark Lopez**  
**Mountain Road Storage**  
**Map 12 Lot 44**  
**Preapplication Conference-**

Engineer, Jeff Amos gives a brief overview of the proposed storage facility project.

Conversation ensued between the board and applicant, questions and concerns were answered.

Kevin Raday, and John McNerny, abutters to the property speak about the importance of buffers, and aesthetics of the facility. This is a piece of property with views to the mountains and they would like to keep it aesthetically pleasing to people entering Bridgton.

**5B. Keith Harnum & Dustin Roma**  
**Mixed- Use project**  
**Map 12 Lot 22**  
**Preapplication Conference-**

Engineer, Dustin Roma gives a brief overview of proposed project. The property would be divided into two lots, the first 5-acre lot being self-storage buildings and the other 19 acres would be a residential condominium development.

Conversation ensued between the Board and applicant, questions and concerns were answered.

Keith Pelletier, property abutter voiced concerns of keeping the tree line as a remaining buffer and questions the potential impact on the associations water.

Mr. & Mrs. Janelle, abutters to the property voiced concerns on the aesthetic value of this area.

**5C. Puffin Co./ Kelly Bouthiette**  
**510 Portland Rd.**  
**Map 6 Lot 1**  
**Adult Use Marijuana Retail store**

**MOTION:** Dan Harden moved to not have a public hearing on the Puffin Company, Second by Greg Watkins. **MOTION FAILS 3/2**

Applicant gives a brief overview of proposed business, also stated that they were expecting that a Public Hearing would be required.

The Board set the public hearing for November 3, 2020

Applicant offered to send the board pictures of her existing store concept in Fryeburg.

**Item 7- Other**

Deb Brusini suggested the board set up a workshop for land use changes.

Deb Brusini mentioned a few documents she had written up and given to staff to review. These documents will be discussed with the board at future meetings.

**MOTION:** Dee Miller moved to adjourn at 8:41, second by Dan Harden. **MOTION CARRIES 5/0**