

NORTH BERWICK, MAINE, 03906

MINUTES OF PLANNING BOARD OCTOBER 14, 2010

Present: Chairman R. Todd Hoffman, Julie Fernee, Shaun DeWolf, Barry Chase Patrick Raftery and Lawrence Huntley, CEO.

Absent: Christopher Karcher

Also Present: Brian Rayback, Jane Barnum, Steve Barnum, Roger Bisson, Kevin Mayfield, Ralf Guphill, Richard Lovejoy, Ray Smith, Anne Whitten, Wayne Whitten, Todd Goldenberg, Butch Thibodeau, David Harper, Paulette Harper, Thomas Lovejoy, Richard Dimario, J. Robin Lovejoy, Ernie Santosuosso and Tony Lombardi.

1. Call To Order:

Chairman R. Todd Hoffman opened the Planning Board Meeting at 6:32 p.m.

2. Current Business:

A. Wayne & Anne Whitten---Application for a Seaplane Ramp. The Planning Board will Review Article 6.9.6 (a) & (c) under the Town of North Berwick Conditional Use Approval Standard for Rectification as described by an Administrative Appeal on August 30, 2010.
(Map 13, Lot 43) 121 West First Street

Chairman R. Todd Hoffman explained that the agenda item this evening for Wayne and Anne Whitten application for Seaplane Ramp.

This is before us again because of a vote 4-0 by the Zoning Board of Appeal to send back to the Planning Board for rectification concerning Ordinance 6.9.6 (a) & (c).

In the items reviewed for making this decision, we also had exhibits submitted on behave of Ina Brother by Attorney Nick Livesay.

In that exhibit on pages 6-14 / 6-15 and it is addressing the Ordinance in question: 6.9.6 of that submission.

This is not a public hearing but if someone on the Planning Board wishes to ask questions.

The evidence before us is the testimonies taken at the June 28, 2010 and the July 8, 2010 meetings and the submission that I mentioned from Attorney Nick Livesay.

Steve Barnum spoke that he would like to make one point that during the July meeting. I brought up the 6.9.6 that was rebuffed at that point and obviously that is why we are all back here. I think that

also there is some new evidence that I think to be submitted based on the operation of this ramp during the summer. I suggest that you accept this new evidence.

Chairman R. Todd Hoffman replied I'll put that out to the Board. This is not a public hearing from my understanding the ZBA made delineation on our findings. We are here to review the findings and correct mistakes that they feel we made.

I don't know about new evidence or testimony or submissions.

Barry Chase spoke: I don't think we could.

Steve Barnum spoke: that as we have observed this ramp in operation over the past three months. It was put in operation granted a permit. We have observed things that

Chairman R. Todd Hoffman replied that we can go to and reiterate and we have the Enforcing Officer and talk about 6.9.8 Violations.

Steve Barnum spoke: what I m saying is the evidence may impact your decision as you go through the items.

Chairman R. Todd Hoffman replied I don't know the legalities of that.

Lawrence Huntley, CEO spoke: that I m in charge of the enforcement of all these Articles and I have no information that anything was wrong at that lake this summer.

Barry Chase spoke: that it isn't that we failed to take this into account. We didn't list it. We have all read it and know what it says and took this into account in our minds, but did not list it out. I think that is the only things where here to do is list these out and say why.

The Planning Board agreed not to accept new evidence at this meeting.

Steve Barnum spoke: to be fair my concern were new evidence was presented at Zoning Board of Appeals, and I believe Larry you were present; correct.

Lawrence Huntley, CEO replied yes I was at the Zoning Board of Appeals.

Lawrence Huntley, CEO spoke: that the ZBA approved two of your conditions and the only condition they sent back to you was the fact that you didn't review 6.9.6 (a) & (c). All the other Articles in your approval were ok with the Zoning Board of Appeals that is not up for review.

Chairman R. Todd Hoffman asked the Board if it would make sense to do a vote on each item just for clarity.

Barry Chase spoke: that is what Bill Plouffe had the Zoning Board of Appeals do, they did a vote on each one and then said yes or no each of the Board members and then they said why.

Julie Fernie replied I don't think we're obliged to do that.

Barry Chase spoke: that as long as we go through each point and all come to some consensus.

Chairman R. Todd Hoffman read into the record:

Review of Article 6.9.6 (a): under the Town of North Berwick Conditional Use Approval Standard

6.9.6 Factors Applicable to Conditional Uses

a. In considering of the conditional use permit the Planning Board shall evaluate immediate and long-range effects of the proposed uses, and the following factors:

1. the compatibility of the proposed with adjacent land uses and other property in the district;

Barry Chase spoke: my thoughts are they already have Seaplanes Ramps there.

Chairman R. Todd Hoffman spoke: that Seaplanes are boats by the State.

What is hard for me is adjacent land. On the site walk it was very clear to me that this is a neat little cove. I read this and it's just neighborly let's not mess up this nice little area.

I had to look at this property as Lake Front. I canoed around it and there are docks all over the place and a lot of boats and I'm looking at the lake as a whole.

Barry Chase spoke: my feeling is just because the Whitten's like to have Seaplanes and the neighbor might like to have a jet ski; what's the difference.

Shaun DeWolf spoke: that I have the same problem with location and why the need for two more Seaplanes.

2. the need of a particular location for the proposed use;

Chairman R. Todd Hoffman spoke: that this issue of location was brought up at the July 8th meeting and I remember the answer.

And the answer was because we don't have any room on the other side.

My dilemma with that is that even if they had room over there, do we have the authority to say exactly where one places this. And I don't think so. I would love it if you could point out that we do.

Shaun DeWolf replied that I think that we do as with the cell tower. Is that the proper location for it? And I think there could be a better location on their site.

Lawrence Huntley, CEO spoke that I think when you're looking for a particular need, you need to find out what exactly the need is; do you need a slope and bottom for it to be set on; a deep water excess ability, what is that need and you might want to ask the applicant that.

Chairman R. Todd Hoffman replied and we did and one reason why it isn't on another site because it was a beach area.

Shaun DeWolf asked Anne Whitten how far the Seaplane was from the beach area.

Anne Whitten answered 20 feet maybe.

Chairman R. Todd Hoffman spoke: that the DEP looked at this site and was it was appropriate for another structure and met their standards. During the Planning Boards site walk and the site specifically and sighting that in our findings of fact for that site walk it seemed appropriate if other things considering.

My presence is that I would like to protect that cove. Now do we have the authority to do that?

Barry Chase spoke: that my feeling was that their property in general was very natural compared to most of the surrounding properties.

Patrick Raftery spoke: that I don't see the language in here that gives us the right to decide on that.

Chairman R. Todd Hoffman asked would we have the authority if there was room on the other side.

Shaun DeWolf spoke: that we always ask for radio studies for cell phone towers. Is there a study that we can ask for about placement of this of land use?

Lawrence Huntley, CEO replied not that I m aware of.

Chairman R. Todd Hoffman spoke: that I was hoping Steve Barnum would supply us with some scientific data that we could if not make a judgment send it out for a peer review but it had to do with sightings.

No one submitted anything. When we did do the site walk it looked like a much steeper slope. I didn't inspect the Sanford side per say with that in mind, but I don't know if we have the authority to make them go into Sanford just because there is a feeling that and it is a lovely cove and to be honest I'd rather not have a Seaplane there.

Shaun DeWolf spoke: that if you have everything on that side lets keep it over there. The swimming on one side, keep it separated. It just doesn't sit well.

Shaun DeWolf asked Anne Whitten is there any regulations for Seaplanes on how far they have to be away from a swimming area.

Anne Whitten answered I didn't think this had anything to do with a Seaplane, this is a ramp. Shaun DeWolf asked Anne Whitten that with a Seaplane how far do you have to be away from swimming areas.

Anne Whitten answered I don't believe there are any regulations, but this has nothing to do with Seaplanes.

Shaun DeWolf spoke: ok....

Chairman R. Todd Hoffman spoke: yes it does. Our dilemma is that would be a State Statue, because the State regulates boating and Seaplanes are boats. And Seaplanes and boats are the use that this other structure is for so we do have to consider that.

Shaun DeWolf spoke: that the use is for something we can't allow that is not right to do and then we allow it, it's wrong.

Lawrence Huntley, CEO replied that there is a Statue that says you have to be 100 feet off shore when your cruising, but you are allowed to go to your dock.

Chairman R. Todd Hoffman spoke: that is 100 foot for the 5 mph speed.

Lawrence Huntley, CEO replied yes.

Chairman R. Todd Hoffman spoke: haven't heard any substantial stated reasons that we have the authority or some litigating evidence to site this. We did talk about setbacks.

Lawrence Huntley, CEO replied that the side setback in Limited Shoreland is 20 feet.

Brain Rayback asked that before you leave this can we be clear on the record. I m confused by the discussion. Are we saying that the Board doesn't have the authority to apply its own Ordinance? That is what I here you say.

Chairman R. Todd Hoffman said no. What the record is saying is number 2, the need for particular location for the purpose use. There are not a lot of guidelines for us -- what that the side setback would be and as Shaun asked are there any known State Statues for boats to be kept away from designated swimming areas. Where just trying to find out if there is any tool use to make a very specific sighting purpose and I don't think there is any language that we can come up with that says that.

Brain Rayback replied that I m just trying to make an appellant record here and when the Board talks about not having the authority and can't do sighting that is the whole purpose of this meeting. That is why where here is for the Board to go through that and make your own judgments and I respect you looking for other Statues. Where just trying to go through our process the same way you are going through your process.

Chairman R. Todd Hoffman said just to be clear Shaun DeWolf asked a question --. Why this location? The applicant gave reason. We have searched for reasons why we should be able to change that and so far we don't seem to have any reason to.

3. the impact of the proposed use on local population and community facilities;

Chairman R. Todd Hoffman spoke: that this question is different than number 1, but substantial and a redundant thing although it talks about community facilities, but is compatibility with adjacent land uses and of course the populations that are there.

Patrick Raftery spoke: that there are plenty of docks there already aren't there.

Shaun DeWolf spoke: I have no problem with that.

Barry Chase said that that I think that it is in a broader sense their talking about, like how much impact it has. I don't think it has any impact at all on the community, facilities or the local population.

Chairman R. Todd Hoffman said that I think we made it very clear that this is not to be used as a commercial facility that would be increasing traffic. This is for private use.

Jane Barnum said that the gentleman that uses the ramp Mr. Convoy advertises for flight lessons. Is this a commercial use? We have witnessed them taking people up for purposes.

Chairman R. Todd Hoffman said that they had a fund raiser activity for flights for \$100.00 a seat back in August to help raise money for the damn. My understanding is not very good. That would not necessarily be a commercial purpose. It is a non-profit. Are their lessons being given is that commercial, I think Larry will have to do some digging on that, because when that evidence is come upon and presented to the Town he will need to get legal counsel to decide that.

For the record what we have stated is that this cannot be used Jane. This cannot be used for commercial purposes.

Jane Barnum replied that for the record we have evidence and we would like to submit it.

Chairman R. Todd Hoffman said that is not for us to decide here and now. But at this point our understanding and the permit that we are giving is for a non-commercial use.

4. the impact of the proposed use on transportation facilities;

Patrick Raftery replied no issue.

Barry Chase replied no issue.

Shaun DeWolf replied no issue.

Julie Fernee replied no issue.

Chairman R. Todd Hoffman said that when we deal with this in our Conditional Use Permit it has to do with Performance Standards. We always talk about traffic and it always dealing with roads. We don't have a Town Airport so we are not looking at air trips.

Shaun DeWolf replied again this is for private use. If it was for commercial use it would be a big difference.

5. the maintenance of safe and healthful conditions;

Shaun DeWolf said this goes back to the swimming. I know for a boat you can control it a lot better than a Seaplane when turning and stopping.

Barry Chase replied I don't know if that is true.

Lawrence Huntley, CEO said that there is no regulations on where a boat can go. It can go on a beach as long as it is not a public beach or it is roped off for swimming. And that is a private beach.

Shaun DeWolf replied that it is the safety to me. I know when you're in a boat and your head way speed you're almost in idle you can still cut the wheel and turn the boat pretty quick. When you're on head way speed and you have to turn the boat 90 degrees.

Wayne Whitten spoke: that I have two rudders below.

Shaun DeWolf asked Mr. Whitten how do you power up to go.

Wayne Whitten replied I have two rudders in the water.

Shaun DeWolf asked Mr. Whitten so when you're on your head way speed you can turn 90 degrees just by cutting the rudders.

Anne Whitten said that if they are turning and going on to that ramp that they are not at head way speed and most of the time they are gliding just like a canoe.

Chairman R. Todd Hoffman asked can anyone come up with anything that would be unhealthful or unsafe?

Shaun DeWolf replied that that could be anything.

Barry Chase spoke: that a Seaplane is probably safer than a boat, you're not going to get cut by a propeller on a Seaplane that you would on a boat. To me it isn't an issue.

Chairman R. Todd Hoffman spoke: that I researched Seaplanes and there was a study done from the late 1980's through the late 1990's and seaplanes had lower risk than boats.

6. existing topographic and drainage feature and vegetation cover on site;

Barry Chase spoke: that I don't think it's pertinent it is in the water and not on land.

Chairman R. Todd Hoffman spoke: that we covered this well in our site walk. The DEP sited this location. We did take mitigating elements into consideration, because the site had been cleared without a permit after the storm and therefore cannot be used this season.

7. the prevention and control of water pollution and sedimentation;

Chairman R. Todd Hoffman spoke: that Wayne has certain fuel for his plane. The same as most boaters have gas cans for their boats.

Barry Chase spoke: that I think it's cleaner because there is no motor seating in the water.

Chairman R. Todd Hoffman spoke: that we talk extensively about sedimentation and again the DEP sightings. We want to make sure that any clearing that had taken place that it be given a season for regrowth as part of the Conditional Use.

Jane Barnum spoke: that we have new evidence as far as water pollution is concerned. We observed Mr. Convoy that every time he took off. He went to his plane and pumped out the bilges in his floats directly into the pond. At the Zoning Board of Appeals Mr. Whitten said Brandy Pond was where these people fuel their planes and Brandy Pond as milfoil and I think this new evidence needs to be considered for this particular topic.

Lawrence Huntley, CEO replied that all boats have bilge pumps and they all pump into the lake.

Barry Chase spoke: that it is also illegal to transfer marine aquatic plants.

Chairman R. Todd Hoffman replied that all the boats have their stickers.

Lawrence Huntley, CEO spoke: that Inland Fisheries and Wildlife enforce milfoil and stickers.

Chairman R. Todd Hoffman asked Mr. Whitten is there any Seaplanes without milfoil stickers and how is that enforced.

Wayne Whitten replied that by law they are suppose to. The stickers are enforced through registration.

Steve Barnum spoke: that we have a published DEP document that says Brandy Pond has a milfoil invasion as well as Sebago.

Julie Fernee spoke: that I don't think we have any jurisdiction over that unfortunately.

8. the location of the site with respect to flood plains and floodways of rivers or streams.

Chairman R. Todd Hoffman spoke: that there are no issues with rivers or streams on this topic.

*That concludes the discussion and analysis of 6.9.6 (a)
Chairman R. Todd Hoffman read into the record:*

Review of Article 6.9.6 (c): under the Town of North Berwick Conditional Use Approval Standard

c. Additional Factors for Shoreland Zones: The Planning Board shall approve an application or approve it with a condition if it makes a positive finding based on the information presented that the proposed use:

(1) Will maintain safe and healthful conditions;

Barry Chase spoke: that we have already determined that.

(2) Will not result in water pollution, erosion, or sedimentation to surface waters;

Julie Fernee spoke: how can we control or know that. We don't know do we and we are not in any position to judge that.

*Chairman R. Todd Hoffman replied that what we do know is what the currant uses of this water body are. There are a lot of boats. How much pollution is in there now?
My suspicion is that there is less sedimentation disturbance with a Seaplane than with power boats.*

(3) Will adequately provide for disposal of all wastewater;

Barry Chase spoke: that there is no waste water coming out of a Seaplane.

Julie Fernee said we can't address it.

Patrick Raftery agreed there is no waste coming out of a Seaplane.

(4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

Chairman R. Todd Hoffman said if there was a scientific study available we would have sent that out for evaluation.

Steve Barnum replied I did provide you that for protocol for Seaplane operation which was appointed to by the US Fish and Wildlife Service. That Seaplanes are not to traverse through heavily weeded areas and this site is located in that area and the disposal of potentially waste water or bilge water. It is the same as pouring a gallon from an infected lake and pouring it into Bauneg Beg Lake.

Chairman R. Todd Hoffman spoke: asked that there be no more comments and especially since we already addressed the waste water issue.

Steve Barnum replied you asked for my opinion on studies.

Shaun DeWolf said that I'm not so worried about the weeds as I am on what's around it when there coming in with the prop going; the birds, nesting in the trees.

Shaun DeWolf read: spawning grounds for fish, aquatic life, birds and other wildlife habitat if there is a study that we could get.

Chairman R. Todd Hoffman said that the only thing that we can do is that we know what the use has been for the past 50 years. And it has been Seaplanes and boats. We know that there are fish in the pond, there are loons and there seems to be certain about compatibility.

Shaun DeWolf said that if they can prove that it will have a negative impact on that.

Chairman R. Todd Hoffman asked to do you feel that strongly enough to deny a permit.

Shaun DeWolf answered yes.

Lawrence Huntley, CEO said you need to think what the permit is for. It is for a structure.

Shaun DeWolf replied yes, what is on the structure?

Chairman R. Todd Hoffman said it is use of the structure. It isn't used for swimming. He is talking about the airplane would have a propeller and putting out a lot of air pressure out.

Patrick Raftery said I think it is just a ramp.

Julie Fernee replied that I don't agree with that. The ramp is not isolated on its own. It is not for nothing there.

Chairman R. Todd Hoffman said this is not a swimming ramp it is a Seaplane ramp.

Barry Chase said I don't think it is any different than the boats or other planes. I don't think it significantly changes anything.

(5) Will conserve shore cover and visual, as well as actual, points of access to inland waters;

Chairman R. Todd Hoffman said that I had conversation with DEP, but they had no problem with it and that it was an ok site.

Barry Chase spoke that we took some measures in our conditions to repair the area.

Shaun DeWolf replied we took measures by taping it off.

(6) Will protect archaeological and historic resources as designated in the comprehensive plan;

Chairman R. Todd Hoffman said that my dilemma with this and we have this with site after site. There was no evidence or I would have liked a scientific study about spawning grounds. Archaeological and historic sites I know there are some around, but nothing is presented.

The Board agreed that it would not have a negative impact.

(7) Will avoid problems associated with floodplain development and use; and

Lawrence Huntley, CEO said I can't see a use in a flood plain.

(8) Is in conformance with the provisions of Article 5, Performance Standards.

Chairman R. Todd Hoffman said which we spent a good deal of time with.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

ARTICLE 5 – PERFORMANCE STANDARDS

5.1 BASIC REQUIREMENTS

5.1.1 Traffic and Highway Access

a. **Traffic:** *Chairman R. Todd Hoffman spoke: does not apply. (Board nods accent & or no comment)*

5.1.2 Noise *Chairman R. Todd Hoffman spoke: does not apply. (Board nods accent & or no comment)*

SOUND PRESSURE LEVELS LIMITS MEASURED IN Db(A)'s

5.1.3 Air Emissions *Barry Chase spoke: complies with State and Federal regulations (Board nods accent & or no comment)*

5.1.4 Odor *Chairman R. Todd Hoffman spoke: would comply with State and Federal regulations. (Board nods accent & or no comment)*

5.1.5 Glare *Chairman R. Todd Hoffman spoke: would comply with State and Federal regulations. (Board nods accent & or no comment)*

5.1.6 Storm Water Run-Off *Chairman R. Todd Hoffman spoke: we have dealt with this issue and DEP and mitigation process and silting etc. (Board nods accent & or no comment)*

5.1.7 Erosion Control *Chairman R. Todd Hoffman spoke: we have dealt with this issue and DEP and mitigation. (Board nods accent & or no comment)*

5.1.8 Setback and Screening *Chairman R. Todd Hoffman spoke: that we discussed setback and there is not a commercial operation, so it does not need screening or a buffer area. (Board nods accent & or no comment)*

5.1.9 Explosive Materials *Chairman R. Todd Hoffman spoke: no issue. (Board nods accent & or no comment)*

5.1.10 Water Quality *Chairman R. Todd Hoffman spoke: we have discussed this issue extensively. (Board nods accent & or no comment)*

5.1.11 Flood Protection *Chairman R. Todd Hoffman spoke: we have discussed this issue. (Board nods accent & or no comment)*

5.1.12 Soil Suitability for Construction *Chairman R. Todd Hoffman spoke: we have discussed that about construction. This is a temporary not a permanent structure. The condition is this is not pulled up over the land, but is floated around to the other side and drawn out on a permanent structure. Not up across the soil ripping it up. (Board nods accent & or no comment)*

5.1.13 Off-Street Parking and Loading *Chairman R. Todd Hoffman spoke: it is not a commercial. (Board nods accent & or no comment)*

5.1.14 Subsurface Sewage Disposal *Chairman R. Todd Hoffman spoke: there is none. (Board nods accent & or no comment)*

5.1.15 Other On-Site Disposal System *Chairman R. Todd Hoffman spoke: there is none. (Board nods accent & or no comment)*

5.1.16 Private Wells *Chairman R. Todd Hoffman spoke: there is none? (Board nods accent & no comment)*

5.2 SPECIFIC ACTIVITIES

5.2.2 Earth Material Removal *Chairman R. Todd Hoffman spoke: this is not a sand pit there is no removal. (Board nods accent & or no comment)*

5.2.3 HOME OCCUPATIONS *Chairman R. Todd Hoffman spoke: this is not a business or commercial purpose's (Board nods accent & or no comment)*

5.2.4 MOBILE HOME PARKS, SEASONAL TRAILER PARKS, AND CAMPGROUNDS *Chairman R. Todd Hoffman spoke: does not pertain. (Board nods accent & or no comment)*

(5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure.

5.2.5 Planned Unit Development, Open Space Development and Motels

Chairman R. Todd Hoffman spoke: e does not pertain. (Board nods accent & or no comment)

5.2.6 Signs and Billboards *Chairman R. Todd Hoffman spoke: this is not a commercial operation. (Board nods accent & or no comment)*

5.2.7 Timber Harvesting *Chairman R. Todd Hoffman spoke: we know that there is always a Conditional Use Permit for any cutting in the Shoreland Zone. This does not deal with Timber Harvesting. (Board nods accent & or no comment)*

5.2.8 Animal Husbandry *Chairman R. Todd Hoffman spoke: e there is no Animal Husbandry. (Board nods accent & or no comment)*

5.2.9 Residential Use in Commercial Zones *Chairman R. Todd Hoffman spoke: this is not. (Board nods accent & or no comment)*

5.2.10 Recreation Vehicles *Chairman R. Todd Hoffman spoke: does not pertain. (Board nods accent & or no comment)*

5.2.11 Agricultural Land and Development Standards *Chairman R. Todd Hoffman spoke: does not pertain. (Board nods accent & or no comment)*

5.2.12 Manufactured Housing *Chairman R. Todd Hoffman spoke: does not pertain. (Board nods accent & or no comment)*

5.2.13 Aquifer Protection with the Aquifer Protection District *Chairman R. Todd Hoffman spoke: we have discussed this and that is why there is not a commercial application here, because it is in the Aquifer Protection. (Board nods accent & or no comment)*

5.2.13 .2 a 5: Boat and Motor Vehicle Service or repair facility *Chairman R. Todd Hoffman spoke: that is all restricted. This cannot be a repair facility. We discussed that at length. (Board nods accent & or no comment)*

5.2.14 Street Design & Construction Standards *Chairman R. Todd Hoffman spoke that does not apply. (Board nods accent & or no comment)*

5.2.15 Handicapped Accessibility *Chairman R. Todd Hoffman spoke: that does not apply. (Board nods accent & or no comment)*

5.2.16 Affordable Housing Standards (Village C Overlay District) *Chairman R. Todd Hoffman spoke that does not apply. (Board nods accent & or no comment)*

5.2.17 Shoreland District Standards

(6) New permanent piers and docks shall no be permitted.

a. Piers, Docks, Wharfs, Bridges and other Structures and Uses Extending Over or Below the Normal High-Water Body or Within a Wetland.

Chairman R. Todd Hoffman said this is the Ordinance that we felt permitted other structure. And the Board has discussed all of these issues. (Board nods accent & or no comment)

- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion. *(Board nods accent & or no comment)*

Chairman R. Todd Hoffman said that appropriate soils were discussed in great length. (Board nods accent & or no comment)

- (2) The location shall not interfere with existing developed or natural beach areas.

Chairman R. Todd Hoffman said we talked about beach area and the ramp is not near the beach. (Board nods accent & or no comment)

- (3) The facility shall be located so as to minimize adverse effects on fisheries.

Chairman R. Todd Hoffman said it was noted in site walk and in Finding of Fact that there are in deed Lilly pads, about 25-30 feet out. (Board nods accent & or no comment)

- (4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses in the area with the surrounding area`

Chairman R. Todd Hoffman said we discussed the compatibility of the zone use with water activity and boats. (Board nods accent & or no comment)

- (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure. *(Board nods accent & or no comment)*

- (6) New permanent piers and docks shall no be permitted. *(Board nods accent & or no comment)*

Chairman R. Todd Hoffman said that this is not a new pier. (Board nods accent & or no comment)

- (7) No existing structures built on over or abutting a pier, dock, wharf or other structure. *(Board nods accent & or no comment)*

- (8) Except in the General Development Districts.

NOTE: *Chairman R. Todd Hoffman said NOTE: Talks about permanent structure. This is not a permanent structure. (Board nods accent & or no comment)*

b. Campgrounds. *Chairman R. Todd Hoffman spoke: does not apply. (Board nods accent & or no comment)*

c. **Individual Private Campsites.** *Chairman R. Todd Hoffman spoke: does not apply. (Board nods accent & or no comment)*

d. **Commercial and Industrial Uses.** *Chairman R. Todd Hoffman spoke: there are none? (Board nods accent & or no comment)*

e. **Parking Areas.** *Chairman R. Todd Hoffman spoke: there is no need for parking. (Board nods accent & or no comment)*

f. **Roads and Driveways.** *Chairman R. Todd Hoffman spoke: there are none? (Board nods accent & or no comment)*

g. **Signs.** *Chairman R. Todd Hoffman spoke: there are none? (Board nods accent & or no comment)*

h. **Storm Water Runoff** *Chairman R. Todd Hoffman spoke: that was discussed in depth. (Board nods accent & or no comment)*

i. **Septic Waste Disposal** *Chairman R. Todd Hoffman spoke: there are none? (Board nods accent & or no comment)*

j. **Essential Services** *Chairman R. Todd Hoffman spoke: there is no demand for essential services that I understand. (Board nods accent & or no comment)*

k. **Mineral Exploration and Extraction.** *Chairman R. Todd Hoffman spoke: it is not. (Board nods accent & or no comment)*

l. **Agriculture** *Chairman R. Todd Hoffman spoke: there are none? (Board nods accent & or no comment)*

m. **Timber Harvesting** *Chairman R. Todd Hoffman spoke: there are none? (Board nods accent & or no comment)*

n. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

Chairman R. Todd Hoffman spoke: that we have dealt with that with the DEP and the site walk and our conditions address that. (Board nods accent & or no comment)

o. **Erosion and Sedimentation Control** *Chairman R. Todd Hoffman spoke: I wanted sediment barriers, but were deemed inappropriate (Board nods accent & or no comment)*

p. **Soils.** *Chairman R. Todd Hoffman spoke: that the Board discussed about soils again DEP stipulated this was an appropriate site. (Board nods accent & or no comment)*

q. **Water Quality.** *Chairman R. Todd Hoffman spoke: that the Board discussed this. (Board nods accent & or no comment)*

r. Archaeological Site. *Chairman R. Todd Hoffman spoke: that the Board discussed in 6.9.6 (c). (Board nods accent & or no comment)*

5.2.18 Adult Business *Chairman R. Todd Hoffman spoke: that this is not an adult business. (Board nods accent & or no comment)*

5.2.19 Emergency Public Health and Safety Facilities

Chairman R. Todd Hoffman spoke: those are the Performance Standards.

Chairman R. Todd Hoffman asked is there anything that we went over than needs further clarification.

Patrick Raftery answered, no.

Barry Chase answered, no.

Shaun DeWolf answered just the wildlife habitat c. (4).

Chairman R. Todd Hoffman spoke: do you want to talk about anything more. What specifically would be problematic or the conditions that we placed on the permit did not address.

Julie Fernee spoke: what we are suppose to be addressing this evening we have addressed and any additional evidence we cannot use. We are going on what we are supposed to be doing and that's all we can do.

Chairman R. Todd Hoffman spoke: that so far the only thing that has been raised is Shaun DeWolf under 6.9.6 c. (4). That these permitted uses disrupts the wildlife.

Barry Chase spoke: that it is compatible with what goes on there now. The only time that it would have an effect on the birds or anything is when the Seaplane is taking off or when it is powering up. When it is just idling it is no more than an outboard motor. I think it is a stretch to make a case out of that one point.

Barry Chase moved that we grant the Conditional Use Permit to Wayne and Anne Whitten for their Seaplane Ramp after reviewing in depth Articles 6.9.6 (a & c) as requested by the Administrative Appeal, Patrick Raftery seconded a motion.

Julie Fernee spoke: that I have read the conditional use approval standards contained in the Town's Zoning Ordinance Article 6.9.6 (a & c) and although I cannot find any obvious reasons to deny the permit I' am still very uncomfortable with the approval.

Barry Chase asked Julie Fernee that you're not saying that based on this.

Julie Fernee replied that I'm saying it is in my heart.

Chairman R. Todd Hoffman asked for a vote on the motion. Vote, 4-1 Motion passes

Finding of Facts:

Request from the Zoning Board of Appeals to review Ordinance 6.9.6 (a & c)

Chairman R. Todd Hoffman asked do you find any exceptions in these Ordinances listed to deny the Whitten's Conditional Use Permit with conditions:

Patrick Raftery spoke: that I find nothing in 6.9.6 (a & c) that gives us the authority to say that the ramp cannot be put there.

Barry Chase spoke: that I find no reason not to grant the Conditional Use Permit after reviewing Articles 6.9.6 (a & c).

Shaun DeWolf spoke: that I say no to Article 6.9.6 c 4 of not having enough information to make a judgment and or in compliance.

Chairman R. Todd Hoffman spoke: that I as Chairman voted to uphold the Conditional Use Permit with conditions having gone through specifically requested Ordinances.

Julie Fernee spoke: that after reviewing the Town's Zoning Ordinance Articles 6.9.6 (a & c) and although I cannot find any obvious reasons to deny the permit I' am very uncomfortable with the approving it, but I did approve it, yes.

Chairman R. Todd Hoffman spoke: that this is after 1 ½ hours of discussion of said Ordinances and all relating Ordinances and testimony of the previous Planning Board Sessions, Site Walk and submitted materials.

Board voted 4-1 Motion passed

3. Preview Next Agenda

4. Other Business:

Lawrence Huntley, CEO explained to the Board that he was asked to present to you a scenario about Private Drive. On a Private Drive there are limited to two dwelling units. Someone suggested that it should be more than two. I told them that I would bring it to the Board to see how you felt and get back to them. The Board does not have to make a decision tonight.

Shaun DeWolf moved to step down as Vice Chairman, Julie Fernee seconded a motion.
Vote, 5-0

Julie Fernee moved to appoint Barry Chase as Vice Chairman, Patrick Raftery seconded a motion.
Vote, 5-0

5. Review Previous Minutes:

Patrick Raftery moved to approve the minutes of June 10, 2010, Shaun DeWolf seconded a motion.
Vote, 3-0

6. Adjournment:

Shaun DeWolf moved to adjourn at 7:45 p.m., Patrick Raftery seconded a motion. Vote, 4-0

Lawrence Huntley, CEO
Planning Coordinator

Respectively Submitted
Anita Lambert, Stenographer

Chairman R. Todd Hoffman

Barry Chase

Julie Fernee

Shaun DeWolf

Christopher Karcher

Patrick Raftery

Chairman R. Todd Hoffman
Barry Chase
Julie Fernee
Shaun DeWolf
Christopher Karcher
Patrick Raftery
CEO
Town Manager
Post Inside/Outside
File