

# Town of Acton, Maine Planning Board Meeting

March 18, 2021, 6:00 p.m.

## MEETING MINUTES

**Members Present:** Christopher Whitman, Chairman; Gavin Maloney, Vice-Chair; Dennis Long, John Qua, Jim Driscoll, Pat Pearson (Alternate)

**Also Present:** Ben Smith, North Star Planning; Mike Gilpatrick, CEO; Kristiina Robinson, Land Use Secretary; Mike Demers, Robert Cibelli, Ann Cibelli, Brian Perry, Sandra Perry, Scott McCloud, Sandry Tavana, Guy, Gesine Weller and Katelyn Long, Video Recorder

**Call to Order:** The Chairman opened the Planning Board Meeting at 6:00 p.m.

**Designate Alternate:** All members were present so no alternate was named.

### **Approval of Minutes:**

- February 18, 2021
- March 4, 2021

**Mr. Dennis Long made a motion to approve the minutes of February 18, 2021 and March 4, 2021.**

Mr. John Qua: Mr. Chairman, can I just say that there's one typo I think we need to address. I think you want to add my last name under on page 2, under Dennis' application. This is John moved I think it should say John Qua. I'll second the motion also. All in favor. So moved.

### **Old Business:**

- **Conditional Use Application submitted by Michael Demers, 125 10<sup>th</sup> Street, Map 147, Lot 020:** Application to do grading and filling in order to relocate the existing driveway and create a leveled front yard. and **Conditional Use Application submitted by Robert and Ann Cibelli, 152 10<sup>th</sup> Street, Map 147, Lot 021:** Application to do grading and filling in order to relocate the existing driveway and create a leveled front yard.

Mr. Gilpatrick: Good afternoon, we have both received both of these applications. I've reviewed the sites relatively thoroughly and came to the determination that the road section of 10<sup>th</sup> Street that abuts each of your properties is in pretty significant need of improvement. It's difficult for emergency response vehicles to get up there and with that being said, if you folks would agree to agree to have some reconstruction on the road that would exempt the portion of that property or material being moved around for reconstruction that would exempt that portion in the Shoreland zone and with that being said, you would have the ability to move or relocate up to 10,000 yards outside of the Shoreland Zone which I believe that's the rural zone there. That would be the only reason why these applications should actually be heard would be for the mineral extraction or the movement of gravel and or within the Shoreland zone. That line has been in question here for a couple of weeks and I think that if you folks would gear that project more towards. I think that may have been the intent at the beginning, but to gear that project towards rebuilding that short section of road a couple of hundred feet that hill as you folks are very well aware of is in excess of 26% grade and our ordinance asks that roads in the Shoreland zone be no greater than 10%. So, I don't think that, I think we can resolve this issue without going through the entire Planning Board process and take this; it would be just a simple road construction in the Shoreland zone with minimal impact to the lake if any. I don't know if you folks have reviewed the package or I'd be happy over it more in depth if anybody has any questions.

Mr. Gavin Maloney: And, while all you folks are doing that, this is Ben Smith the Planner.

Mr. Ben Smith: It really is a Code Officer determination. I think this was placed on the agenda because of mineral extraction, earth-moving activities within the Shoreland zone and again based on Mike's site visit and review of the application, the determination is really that it is for activities that are not conditional uses. They're not uses that would require Planning Board approval. So, there's really no action for the Board to take on these. These are going to become Code Officer's administrative activities where they'll be pulling building permits and soil and erosion permits and those kinds of things through the code office. If there's questions about that, that could be appropriate, but there is no really formal action that the Board would be asked to take at this point on the application if the applications are going to be removed.

Mr. Maloney: Yep. Maybe we can pull if you have one of these images of the site you can pull up for us on the big screen or I could use this. Kristiina Robinson: which one do you want? Mr. Maloney: There you go, that's fine it has the 250 foot line. I think my biggest concern is that it certainly looks to me like more than 500 yards of material have been disrupted and moved within the Shoreland zone and that does require a conditional use permit from the Planning Board and I'm not sure who's to make the determination all I have is this image here which is probably insufficient to determine that but I think the Planning Board needs to decide if we should go through the conditional use process or not and that's one of the things we need to discuss is how many yards of material have been moved in the Shoreland zone and the packet itself indicates that 3400 yards are going to be moved in the Shoreland zone. So, that's certainly more than 500, so I feel like we probably need to get some more information here. I'd like to get a topo map of the site because once again, aerial photograph, it's hard to see exactly what's going on there and I just want to point out too that... oh there we go, that's a good one. Either one of those shows future area to be disrupted which is also in the Shoreland zone and looks like it could be approaching a 100 foot line but I once again that's I don't think 100 foot lines on any of these maps.

Mr. Cibelli: It's not, but that's, it's not near the houses on the 100 foot line halfway in the, into the house is the 100 foot line. Mr. Maloney: Can you just indicate quickly for everyone where the house is on this or maybe the previous one of those maps. Mr. Cibelli: Sure. I'll see that. Dennis Long: If we had a bigger budget so maybe we can get two of these. Mr. Cibelli: Awesome. So, this area right here is my garage. Where the garage starts, so the house is here and the 100 foot line is approximately here. Okay, so everything is past the 100 foot line.

Mr. Maloney: Ok, so that was one question, but we still need to get that probably on the topo map. It's not great to get the 100 foot line in the 250 line on there, so that we can really see what's going on.

Unknown speaker: Mr. Chairman?

Mr. Cibelli: This does not really show what where 10<sup>th</sup> Street is, can you go back up to the drawing..one more...one more...ok, so this where 10<sup>th</sup> Street is right? So, it comes up here and into this area so this whole area is what's being improved to and that's what is going to require that excavation down right, so obviously this hill on that side, we are getting closer to the Shoreline, so what we would like to do is come this way with it and reduce this area down where the existing driveway is now and make this portion of the road in accordance with the requirements for 10<sup>th</sup> Street. So, that's the, that's the area that we're talking about being affected with the slope. So then at when we're done it's just, it's just this little triangle here that would be excavated for that 500 yard requirement.

Mr. Gilpatrick: Mr. Chairman? I believe Gavin where I arrive at this, at this decision is section 5.9, I'm sorry, excuse me, 5.7 Roads and Driveways in the Shoreland District. Mr. Maloney: Yeah. Mr. Gilpatrick: The reconstruction of roads which is what this section needs, Mr. Cibelli... Mr. Cibelli: Can I see that please? Mr. Gilpatrick: The grade is as I said before in excess of 20...26 degrees between here and here at the top of this hill and that's like 350 feet. The, the affected area of excavation currently is down here. Now, if they are going to rebuild this portion of road to bring it to current, to bring it to current compliance with the ordinance, this is exempt from extraction because it's road construction and maintenance in the Shoreland zone per the Acton ordinance section 5.7.

Mr. Maloney: Well, you would think they would still need a traditional use permit even if they were allowed to do it. Mr. Gilpatrick: Well... Mr. Maloney: If we went back to one of the images that kind of shows how the site looks now but a couple of questions about..Mr. Gilpatrick: Unfortunately they're doing that..Mr. Maloney: An image like this..Mr. Gilpatrick: Unfortunately that doesn't state that in our ordinance. If you go to Section 5, 5.9.... Mr. Maloney: Yes I'm there. Mr. Gilpatrick: from there which references which references in incidental construction alteration repair and building...

Unknown Speaker: 5.8?

Mr. Gilpatrick: Sorry. 5.9 B Article 1; it references the incidental that is also exempt and Mr. Cibelli in this larger portion up here, they we're talking about the effect of the big pie area, the intent, we don't have an existing application but when in speaking with Mr. Cibelli is he'll be back here I'm sure to to review an application for a garage for another accessory building. So, the second portion of the excavation would be incidental to that construction. So, that also makes it exempt.

Mr. Maloney: I did have while we are looking at 5.9. I did have another question in that under performance standards. I'm on page 53 of 108 Performance Standards Number 1, No part of any extraction operations will be promoted with 100 feet of any property or street line except the drainage waste reduce runoff or from the extraction area may be allowed up to 50 feet from such line. Natural vegetation should be left and maintained on the undisturbed land. So, I'm a little bit confused about the how we're supposed to view two lots of different ownership and one operation. Do you have any just quick insight on that.

Mr. Demers: Sure like this all goes to the point of extraction versus earth moving. (Yep) Extraction is an industrial extractive industry. What we're doing is on a house lot, it's referred to as earth movement. That's kind of, just wanted to make that distinction.

Mr. Gilpatrick: My point Gavin would be to improve this section of road. If this section of road that is currently used, it's really difficult to get a EMS, EMS up in there and Mr. Cibelli is the dead end on this road. He is the last house on the road. That road has not been improved. The grade on the road is very, very steep in this section. If that can be improved, along with provisions made for erosion, I think it's, it's probably in the best intent.

Mrs. Pearson: I was wondering about, does that also fall into another zone in that area as well? Aquifer protection? Unknown speaker: Yes. Mrs. Pearson: Yes, so how does the rules apply to that? Mr. Gilpatrick: There are very few.

Mr. Smith: The aquifer protection zone? Mr. Maloney: Page 44. Mr. Gilpatrick: Isn't very restrictive. Outside of, it's outside of the, outside of polluting or anything being dumped or any, any contaminants put into the soil. It's not very descriptive in comparison to like the Shoreland zone or...

Mrs. Pearson: So, I was thinking about the chart. Where's the chart? Mr. Maloney: The Land Use chart? Mrs. Pearson: Yeah, yeah that applies to that. Page 18? 17? Dennis Long (whispering): This is the chart they won't but other uses... Mr. Qua: Other uses page 16.. Mr. Maloney: Filling, grading, other earth working activities. Mr. Long: This is a transition zone. Mr. Gilpatrick: And that's kind of, that's how I came to a Conditional Use for more than 500 yards in the Shoreland zone. Unknown speaker: Right, right. Dennis Long: (Whispering under conversation). Mrs. Pearson: Restricted? It's got an "R" or Road Construction? Mr. Gilpatrick: And that's, I guess, that's up to the Board. Mr. Cibelli: What's that? Mr. Demers: The Land Use Chart, I would, would, would go under "Other Earth Moving Activity" So, what we're, what we're applying for, you know, what we're trying to accomplish is the road, the garage and the driveway which has those exemptions. The other would be anything other than that.

Mr. Smith: Yeah, so included in your packets, I had included a memo dated March 4<sup>th</sup> that raised the number of questions based on a conditional use and based on a presumption that these activities are filling grading and earth moving activities. The application, the conditional use applications submitted by the applicants seem to be indicative of that kind of use and certainly the Land Use Table and the kinds of

comments that the Planning Board members are bringing up are related to the quantity of material, the amount of material that's being removed or moved around a site is very limited in the Shoreland zone. It's much less restricted when you're outside that zone.

Parts of my comments were: number one, where exactly is that Shoreland zone boundary? Number two had to do with how much disturbance have occurred so far and how much was going to be required to do the work in the road and site preparation activities for the garage on the other property and we are really talking about both of these applications at the same time. They're, they're two for two abutting properties but in my description here, I'll talk about them both together and then we can talk about them individually if we need to and on page 3 of the Demers application, it does compare as you had noted, different quantities of filling grading and earth moving depending on which zone you're in so besides the basic questions of where's the Shoreland zone and other is this even a permitted use? Is this something that you can even do at all? In where they're talking about it so these were questions that I had.

In discussions with the Code Officer, it's really the Code Officer's determination as to how these uses are classified. So, whether its mineral or extraction or whether it's filling and moving and grading or whether it's something else, it comes through the Code Offices and what Mike had said at the beginning of the meeting is that much of the work associated with the Demers' application is with road reconstruction which earth moving activities associated with road reconstruction wouldn't count towards some of these thresholds numbers that we just went through and with disability application if it's associated with the construction of an additional accessory building the garage that's, that's mentioned in the application. Then that site work would be exempt from these thresholds that we are talking about. So, if, if that's how they're, they're classified and that's pretty much what Mike was saying at the beginning of the meeting, that activity is allowed with code permits having to meet the existing road standards. They have to meet the soil and erosion control standards in the ordinance. The site would have to be stabilized and meet the all of the requirements that the Code Officers going to be putting in place for those things, but there wouldn't be Board decision tonight about is this a conditional use or not does the Board need to review it or not or does the Board need to make findings effect on a conditional use at all, so, I think there's a long-winded way of kind of coming back to the original point that Mike was making then saying that these applications for conditional use are withdrawn by the applicants because they are not anything that the Board could act on their Administrative Code Officer activities that would go through the Code Office.

Dennis Long: If I may Mr. Chairman. Past practices has been and I haven't been on the Board as long as Gavin by any means, but past practices has been with me , the only thing we have heard was what the CEO said we had to have come before us. What I am hearing, if I'm right, the CEO was saying this doesn't need to come before us. That it is under his jurisdiction and I'm going to trust the CEO and if he says something doesn't need to come before us and it doesn't need to come before us. That's just my opinion.

Mr. Jim Driscoll: I agree with that 100%. Mr. Long: So, do you want a motion on this or do you just want to drop it or don't you need a motion? Mike? Mr. Gilpatrick: We don't need a motion. We just, we'll just ask to move to dismiss them. This is the application. Mr. Cibelli: This is a courtesy that you are telling us this? MR. Gilpatrick: Pretty much! Yes, yep.

Mr. Smith: The items do appear on the agenda this evening and the applicants had submitted those applications, and so it's appropriate to have this explanation rather than just pretend that there wasn't an application and it wasn't on the agenda but essentially these, these have become administrative items rather than Board items. Mr. Long: And, the way the process works, is my understanding, if somebody out there disagrees with what the CEO is doing or not doing, whatever, they can all also do an administrative appeal on the Code Enforcement Officer and let the Zoning Board of Appeals make that determination whether he was right or whether he was wrong. That's how the process works. Historically.

Unknown Speaker: Thank you.

Mr. Maloney: Well, let me say that what I go by is the Land Use Chart and these pamphlets were presented to me as a conditional use permit. I spent several hours looking at them. I feel that this does warrant a

conditional use permit which wouldn't stop the project in any way, it wouldn't, I don't see how it would be a detriment to the project. The biggest benefit to the Board would be that you would get some help from us with your reclamation and vegetation plan which does need some sprucing up I must say. I did put on together that I could share with you but, I really think that maybe the rest of the Board members should at least voice their opinions because from what I've seen there's more than 500 yards of disturbance in the Shoreland zone and going through the conditional use permit isn't a detriment to anyone, it allows us to put in place other safeguards to help with the project. Because it does look a little bit larger than just the two items discussed; the road and the garage. I'd love to do a site walk out there. The photos that were presented in the pamphlets made it look like a fairly large project and without a topo map, it is very hard to, you know I'd love to see a topo before the project and then proposed afterwards so we can really see the difference; how much soil is disappearing or being moved and in the Shoreland zone. I feel like we might be going a little too quickly over this and that's my opinion. I do have some ideas for your reclamation plan.

Mrs. Robinson: Do you want me to go back to the survey? Mr. Cibelli: No, no, keep going down, the other way, yeah. Mr. Maloney: I feel like if we did a condition we would be able to put a reclamation plan in effect. Mr. Cibelli: Back up, back up. Mr. Maloney: The engineer's assessment, yeah, I like that one. Mr. Cibelli: Scroll up a little bit. Yeah, can you scroll up to the next picture?

Mr. Maloney: The picture on that one, I did want to point out that if you also look at your engineer's assessment, I forget which packet it's in, here we go. The last bullet item... is overall stormwater runoff will be contained within the pit area makes it sound like a bigger project. Mr. Cibelli: This area right here is where all the drainage goes right now, so that's a depression there that even in floods of 2006, that did not have any water in it and all of this slope from this hill and this hill, came down into that area and that contained all the runoff. Mr. Maloney: I just felt like the terminology of the professional engineers assessment was indicative of a mineral extraction project, but I'm fine with viewing it as a filling, grading, earth moving activity.

Mr. Demers: And, I guess that is our point Gavin is that it is a private driveway, private road, improving these are our rights to do. It is under 592b exempt from Planning Board and conditional use. Meaning, it shall be allowed without a conditional use permit from the Planning Board. It couldn't be any more clear in my mind that these activities we are doing on my property, the driveway; on Bob's the garage and the road that this is incidental to those ends. You know, the ordinance describes permitting authorities for different uses. This is where the ordinance specifically points out that the Planning Board doesn't have jurisdiction over this. My driveway sitting.. Mr. Maloney: In those two instances of the road and the lot but without seeing those separate, you know, if you broke those down to separate projects and the shortest amount of soil you are removing for those and then I just feel like what we're looking at is bigger than those two projects but I could also use more information in order to make that determination.

Mrs. Cibelli: Would you just work with the Code Enforcement Officer? Mr. Maloney: Well, it's for the Board to, I really feel like it is for the Board to decide if it's a conditional use permit or not and it's not it wouldn't really be, I don't see how it is a detriment. Mr. Cibelli: I think that it's.. Mr. Demers: It is the role of the Code Enforcement Officer to make a determination on use and if that use requires a site plan or conditional use review then it's the Board's job at that point to look at all the standards and requirements associated with that, but there are a number of things that are reserved for the Code Officer to do through that office and based on the determination, that has been made, these items are exempt from conditional use review.

Mr. Maloney: I guess that's kind of what we were discussing was, is there any excess work going on outside these two items in this location and I feel like there has been more than 500 yards of material disturbed in the Shoreland zone and it warrants a conditional use permit. Which, I don't see how that really slows anything down.

Mr. Whitman: We had a question. Scot McCloud: Yes, yes, it's Scot McCloud, Acton Construction, I'm not here for this project, however, I did play a role in building the house in that project over there. I want to speak; my point of what I see over there, my experience of that. I did have a worker slip and fall and get hurt; of that, civilians don't even know this, the ambulance came to the site. I brought the worker down the

driveway because they couldn't make it up that hill. Now, also know in the topography of that land, and what I see they want to do, there's no way you can drop that hill and keep it at 500 yards. The only way that work can happen, is to work the site is what's being asked and it's better for everybody. EMS can't get up there, I know. Mr. Whitman: Thank you. Mr. McCloud: That's my point.

Mr. Long: Mr. Chair. Mr. Whitman: Yes. Unless there is some objection, I would like to make a motion that we put it back to the CEO where it belongs and we move on. Mr. Driscoll: I'll second that. Mr. Whitman: Any objections. Mr. Maloney: I was wondering if you would permit me to read what I have for their reclamation, yeah, I mean I honestly what's in the package, I don't know. Mrs. Pearson: You put a lot of work into this.

Mr. Maloney: I mean, this is what our job as volunteers when we're presented with the applicants, to go over it and honestly this is what I came up with and I already expressed my opinion about most of it, but I do find that the reclamation plan provided could be assisted, which there is a couple of them that kind of look like this. One of them looks like this, there's a bigger one too, but of course, I mean I could, I can read it but I don't know how you know we're going to proceed exactly without...

Mr. Gilpatrick: Mr. Chairman, Mr. Chairman, If you'd like to give that to me because we can certainly sit down and work over what we're going to require for a set of for the sediment erosion control and their revegetation plan when this, when this comes to the, when this comes to a head, when it's time to look at those facets of the, of this project. Mr. Maloney: Yeah well I felt like it was one of the first things we needed to do because we can't, say it was a conditional use permit, which we need to have a reclamation plan in hand before we can approve it, so I just, that's how I came up with this.

Mr. Whitman: Can we get a vote to move on? With a raise of hands, the vote was 4-1 (Maloney). Mr. Whitman: Thank you. Thank you.

- **Best Practical Location Application submitted by Brian and Sandra Perry, 668 13<sup>th</sup> Street, Map 143, Lot 034:** Application to replace an existing 6' x 12' boat shed located 13' 10" from the high-water mark.

Mr. Gilpatrick: Let's see the plot plan please. Mr. Whitman: Do we want the applicant to explain it? Mr. Maloney: Yes. Mr. Whitman to Applicant: You want to explain what you want to have done?

Mr. Perry: We want to have an open permit to replace that Shoreline wall so it's made up of three layers. There's one that's near the water's edge and Matt Colton's doing that one. He's two-thirds the way through so he's, he has the Shoreline wall and there's two walls up when he did that, there was an existing shed of that same dimension that he could not, it was sitting on one of those walls and he couldn't do the work with that shed there and so I'm asking to have that shed replaced. In its previous size and location and also in the same the stairs are he's taking the stairs out because they go over the walls, so my plan is to replace the stairs all the way up to the top. There's generally about 85 stairs from the water all the way up to the top property.

Mr. Whitman: So, this is the greatest practical extent?

Mr. Gilpatrick: So, what I viewed from my site visit for the greatest practical extent is by looking at this plot plan. (Yep, that's ok.) If you look at the plot plan and in the set of stairs that go down over, that go down over this grade, you can, you can tell that its very, very steep, very steep, and the small section where the retaining wall is actually being built is pretty much the only flat area between, between the water's edge and the deck area at the top, on top of the hill at the camp. It's pretty much vertical, it's like 50% grade, so I guess the Board's, the Board's position at this point is to determine if this shed is at the greatest practical extent or was at the greatest practical extent prior to removal. (do you want to go...)

Mr. Maloney: I just had a question as to, did you use boats to remove and bring in new water or did you go up and down the stairs?

Mr. Perry: Well, we have what we have boats down so this picture to the right shows it the grade, so we have boats down at the lower level but, it's so far away from the house, you have life jackets, paddles, everything, you know that requires to go with those boats is in the, locked in the shed and secured. There is only so much you can secure on the shoreline and taking the boats up and down. Mr. Maloney: I'm talking about the lumber for demoing the shed and rebuilding, the lumber itself, I was just wondering, how it was going to be maneuvered. Mr. Perry: So, Matt has a barge, that's how it went out and it's going to come, I'm actually Country Style Sheds in Shapleigh has agreed to do the work and Matt will do is deliver the materials in the shed via barge and they'll drop it in that way. Mr. Long: It'd the same size shed? Mr. Perry: Yes. Mr. Long: I see no reason to change where it is myself. Mr. Whitman: Motion?

Mr. Long: I'll make a motion to approve the application submitted by Brian and Sandra Perry, 668 13<sup>th</sup> Street, Map 143, Lot 030 to replace the existing 6 x 12' shed in the same location. (Mr. Whitman/Mr. Gilpatrick: There is a typo; it is actually 10 x 12.) Mr. Long: Alright. 10 x 12. I'll change my motion; seconded by Mr. John Qua. Mr. Whitman: All in favor? With a raise of hands, all were in favor. (Vote 5:0).

Mr. Perry: Thank you. Thank you. Thank you.

Mr. Whitman: Next up is the best practical location application submitted by Sandry, 1052 West Shore Drive, Map/Lot 123/030. The application is to demo the existing storage building to incorporate the square footage of the garage.

- **Best Practical Location Application submitted by Sandry Tavana, 1052 West Shore Drive, Map 123, Lot 030:** Application to demo the existing storage building to incorporate into the square footage of the garage.

Guy: This is Sean Woods, construction hired here with Sandry to perform the work on site. We currently have a shed if you can see it to the, I'm going call it the... Mr. Long: you got your pen over there guy? Right, right on your left side. Guy: Oh, sorry. This is the shed that is in question right now. It is existing, we are currently anticipating to tear it down to consolidate into what will be a new footprint of a new dwelling in this vicinity right here. We're hoping to utilize that footprint as part of the new structure but currently we have some I guess we'll call them setbacks with this utility line pole here that's illustrated with an overhead line that comes down through here that's causing a little bit of restriction but we're just looking to get the advice from the Board as to its best practical location and see where you guys find it best paced.

Mr. Long: So, you want to do is tear down the shed and use that square footage as part of your 30% expansion for your garage. Guy: That's correct. Yeah, some of the shed is outside of the one hundred feet. This starting line right here is illustrating it's about 40 percent is in for the hundred foot mark and about 60 I would say is out. Sean Woods: The 100 is the pinkish, the purple right. Guy: I'm sorry, I'm mistaken, and that's the building envelope. I'm sorry this right here is the hundred foot, my apologies. Mr. Long: So, personally, I'm blind.

Mr. Maloney: So, are you incorporating it with the garage on the left of the picture or the dwelling on the right? Guy: So, this was previous Planning Board. I don't know if you recall this on Gavin? Mr. Maloney: We had it, it wasn't that long ago. Guy: So, that structure has now been removed we have excavated out the trees that you show illustrated upon some further discussions with Mike about our volumes and what we are looking to utilize. We've now decided to shift the anticipated new structures footprint back to this location here and take advantage of this space as well because this shed isn't, it's rotting from the ground up and it is in dire need of replacement so we are hoping to re-renoate that and utilize that as part of the new shock share. Mr. Gilpatrick: Or as a garage. Guy: Yeah, correct and it may or may not be connected to existing dwelling. We're still in the process of conceptual drawings for that at the moment.

Mr. Maloney: I can't, I think it would have to be attached to the net if it was part of the 30 percent of the house or I mean you could have it, I suppose you could have an attached garage but it I don't yeah... Guy: It is my understanding that, I mean depending on where you guys put the this high you know the setback from the waterfront, which I think we have an 89.9 that as long as wherever you set the new footprint for

that, then we can still utilize that square footage within this vicinity. Right in this area; but, I think that's something that will determine once you guys give us a high water setback to work within based on that, this structure right here. Mr. Maloney: And, we gave you 45 feet last time on the main house. Mr. Gilpatrick: On the main construction here. Guy: Exactly, because we had an originally 27 I believe, we pushed it back to this, this is the 45 foot setback that you see here. Mr. Gilpatrick: Yes. Guy: So where this is the envelope that we are working within. This starter line right here represents an easement for the utility line that comes through here. There's a 15 foot easement to the left and right. Mr. Maloney: I think as long as you don't encroach on that 45 feet we already prescribed we're pretty happy unless, unless Mike has something. Mr. Gilpatrick: Nope. I'm okay with that. Mr. Long: Like I said, I'm fine with it. Mr. Whitman: Motion?

Mr. Long: I make a motion we approve the application submitted by Sandry Tavana, 1052 West Shore Drive, Map/Lot 126/030, to demo the existing storage building to incorporate into the square footage of the garage. Mr. Maloney: And, that was the only part that confused me, I thought you were talking about the building to the left. Unknown Speaker: I'm sorry it should be the house. Mr. Maloney: So, maybe we should, maybe make sure that it is house, not garage. Correct. Just, for your sake too. Guy: Okay. Mr. Long: Ok Gavin, you made the motion. Mr. Mahoney: No, that is the motion Dennis. I second Dennis' motion. Mr. Smith: just change the word garage to house. Guy: Exactly. Mr. Long: Alright.

Mr. Whitman: All in favor? By a show of hands, all were in favor. (Vote 5:0).

Mr. Long: I really wish, honestly that some other people would make some of these motions. So it doesn't look like I'm trying to run the Planning Board meeting. (laughter) Mr. Gilpatrick: You are doing fine Dennis. Mr. Long: Well, I'm sure. He's the only one.

Guy and Mr. Sandry: Thanks a lot guys.

(Inaudible comment) Mr. Long: Well you know. Mr. Gilpatrick: There's a lot of stuff going on.

- **Best Practical Location Application submitted by Mary Miller, 9 Thrush Road, Map 126, Lot 016:** Application to demo the existing home and rebuild within the 30% allowable expansion.

Mr. Whitman: All right, next is a best practical location application submitted by Mary Millet, 9 Thrush Road, Map 126, Lot 016; application to demo the existing home and rebuild within the 30% allowable expansion.

Scott McCloud: Good afternoon, Scott McCloud, Ashville Construction. I'm representing Mary Miller for this proposed relocation of rebuilding of a camp over on square pond and in the packet you can see, we have a proposed location for the new structure be on page A 0.1 Mr. Gilpatrick. I'm not sure which one you have up there. Unknown speaker: Nailed it) Mr. Gilpatrick: There you go.

Mr. McCloud: So, across this, you can see, our setbacks, let me get myself oriented as well. 100 foot mark, this proposed location, maybe it would be better to go to A 0.3. You can see it quite better I think. (Yep.) Yeah, here we go, so this is the 100 foot setback for the new structure location looking to pull the structure back the old one's existing which I'm not sure did I give you a copy of the old existing structure yet? Do you have a layer of that where it shows related to that 100 foot mark? Mr. Gilpatrick: This one. Mrs. Robinson: It's just not very clear, I'm sorry. Mr. McCloud: Yeah, so here is the old structure here, and the 100 foot mark, I believe I'm not mistaken is this line right here. And then of course, you can see some pretty steep grades up behind where we are proposing to pull the structure back. It's really because of grading the design and the plan has been worked through. I kind of came into this project a lit bit in the middle. I haven't always been a part of what they've done in locating but I have walked and checked it out and it's short of where you wouldn't want the home down here close to the water. This is the flattest area. The rest of it is all in grade and they stepped the home up into the hillside to try and make it work out and the foundation would act as its retaining wall. Just trying to pull that structure back and get away from the water.

Mr. Long: That's very steep in there. Mr. McCloud: It is. Mr. Long: Very, very steep. Mr. Maloney: So what are the numbers we are looking at? Existing set back from the lake and proposed set back. Mr. McCloud:



So, our existing set back number here (Mr. Gilpatrick: You want glasses. Mr. Maloney: Pretty small. Mr. Whitman: Can you zoom on there? Mrs. Robinson: This is 65. (Mrs. Robinson and Mr. Gilpatrick confer on projection levels.)

Mr. Long: You say the foundation's in the banking already? Mr. McCloud: I'm sorry? Mr. Long: The foundation is already in... Mr. McCloud: The foundation presently is on post and piers and stuff and it's up against the bottom of the hillside. Mr. Long: Yeah. Mr. McCloud: Now it would be coming into the bank pulling the house back and utilizing the foundation of the house. Mr. Long: How much more do you want to move with that? Mr. McCloud: How much farther are we pulling it back? Mr. Long: Yeah, yeah, now we're anywhere from.... (Mr. Gilpatrick: So, see if it's blurry now. Mr. Whitman: I think it says 55.) Mr. Long: It can't be too far. Mr. McCloud: Well, we're actually pulling it, try to pull it back from his existing, I don't remember Dennis, I'm trying to find those 35; my plan... Mr. Gilpatrick: I can't be certain. I'm sorry, I think it's 55 but I can't be certain. I need some cheaters. Mr. Long: You want mine? Mr. Maloney: Well the only one is..this map here is proposed. Mr. McCloud: Which page and which map is that? Mr. Maloney: The second one. Mr. McCloud: 8 O. 1? Mr. Maloney: Yes, the proposed location of the structure. Mr. Gilpatrick: I think it is 55 to 65. Mr. Long: Where the proposed is and now it's 45. Mr. McCloud: Can we zoom in on that at all because that is the old right? Mr. Gilpatrick: Yes, it gets blurry. Mr. McCloud: I think it get's blurry because there is a number on that. Mr. Whitman: I believe it is 55. Mr. Maloney: Where is that? Mr. Gilpatrick: You can barely see it off to the right left Gavin. (Mrs. Robinson: It's not going to get...) Mr. Maloney: I mean I said the line from the deck to the shore, but I don't... Mr. Gilpatrick: Yep it is, it looks like it's reading this like third or fourth layer of the topo. Mr. Maloney: This is something that says something about a birch tree. Right there, see? I'll see if I can pull it up on something. Here so I can read it. Mr. Whitman: There's closer to it. Mr. Gilpatrick: Yep. Mr. Whitman: Yep two little...Mr. Maloney: We got 20 inch pine tree, 10 inch birch tree, 14 inch pine tree, apparent beach area.

Mrs. Pearson: The scale on the bottom that I was looking at, is like 60 per inch maybe. Mr. Maloney: So, all right, so right now they are pulling the proposal, moving the front corner of the home, let me see which page I'm looking at because maybe I can pull it up here. So, if you don't mind going back to A 0.1, and the location on the deck right here is a, this is the old deck, this is the number here. Is representative of the new, this porch here, the steps coming down off of the front of the house that point is 65 feet to here this is the old structure here in front. The, you can see the old part of the home. So, you can see what they have taken the house and try to pull it back from the water. So, the distance presently, I wish I could see that number, right there. Mr. Long: 65. Mr. Maloney: Well, the 65 Dennis is, that's actually the new; the old is 45 feet. Mr. Gil Patrick: 45. Mr. Long: So what you're looking at best practical location no closer than 65 feet off the water. Mr. Maloney: That's correct, from 45 and I can't actually..if you want to touch my phone, you can actually see much better where you can zoom in and see that number. This number here is for 45 and that is 65, so front corner of existing is 45, new is 65 and it's right there. This here is representative of the old house. It's kind of blurry so it's hard to see. It looks like one big house. So, they're actually sitting right on top of part of the old. Mr. Long: Cool.

Mr. Smith: Mr. Chair? Is, is the, did you have to cut into that grade to locate the house that way or is it located, it looks like from here it's almost over....

Mr. McCloud: It's cutting into the grade of that and going up in steps as it goes up the hillside. Mr. Maloney: If we go to page A O.2, do you have the page onsite? I have it in larger format if you want to pass it around. Mr. Smith: Okay. Oh yeah, so you have it in full size. Yeah, that will be a lot easier to see. Mr. Long: She is so good, I'll tell ya, what a Godsend. Mr. Smith: Well, you can probably read the 65 and 55 on that. Mr. Gilpatrick: Yes, I could have read it on this one. Mr. Long: You want my glasses? Mr. Gilpatrick: No, I think I can read this one. I'm in good shape now. I think this is the elevation that he was referring to. Can everybody see this side? Response: Yes. That point right there is the 65 feet. The rest of it goes into the hillside, so we are definitely excavating into the hillside to get that home in there, but this, the old houses roughly would be out here around 45 feet and we're at 65 feet here and then pulling the rest and you can see how it goes up the grade or into the hillside if you will.

Mrs. Pearson: That is a lot more user friendly. Mr. Long: I'm fine with everything. Mr. Qua: You are going to have to do it again Dennis. Mr. Long: All right. I'm getting my glasses back on. Let's see. I make a motion to approve the best practical location application by Mary Miller, 9 Thrush Road, Map/Lot 126/016 to demo the existing home and rebuild within 30 percent, no closer than 65 feet from the high water mark. How they do, they're good all right second. Mr. Whitman: Discussion on this? Mr. Maloney: Not much, just I think it would be great to have a diagram in the future of just the old existing house because that's what we're supposed to be looking at it's confusing when they put the proposed on there, but other than that, nope. Mr. Whitman: All in favor of approving the motion? By a show of hands, all were in favor. (Vote 5:0).

Mr. McCloud: Thank you very much. Mr. Whitman: Thank you.

Mr. Long: Mr Chairman I need just a short break.

(Intermittent talking during short recess:

Mr. Maloney: Yesterday morning I thought we had a public hearing, you know, we are supposed to have these materials two weeks ahead of time, so we have time to review them. You know, some people choose not to review them but that was kind of you know that was a lot to do in a short period of time. I think you know... Mr. Whitman: Trying to work that way, but we're trying to get caught up. Mr. Maloney: No, I'm not blaming the Land Use Office, I'm saying, the applicant should be dealing with the fact that they can't just push it through all of the sudden. Mrs. Robinson: Well, I think that I was having it. Mr. Maloney: Oh I know the applicants don't start the material sooner than that. Mrs. Robinson: You need to change the submission date to obviously more than... Mr. Maloney: Yes it will be helpful to get submissions in a week earlier to have a little more time with them before they get to this venue so that things are little more... Mr. Smith: On the Land Use and on the forward side... Mr. Whitman: Is that an ordinance change? Mr. Maloney: It is in there somewhere that we are supposed to have it ahead of time. We need to look at it.

Mr. Long: Thank you Mr. Chairman.

Mr. Smith: Hey Mike, do you need me to stick around for the MMA training discussion or anything? Okay, maybe I'll sneak away while we are having an intermission. Mr. Long: Thank you Ben; nice seeing you. Mr. Maloney: Yeah, I hope the roads aren't freezing up yet. Mrs. Pearson: Good night.)

Mr. Gilpatrick: Here are the bylaws, has everyone seen them yet? Do you want to ask for a motion so that we can talk about that for a second so Mrs. Weller doesn't have to wait any longer.

Mrs. Weller: So, I recently purchased the home where I am living on Route 109 and I was interested in as I have 12 acres there to maybe put like a cold storage like sell like storage units that people could store stuff, the mini storage over there and when I went to the Code Enforcement to find out about it, its not in the ordinances that the use would be allowed so, I was just curious if that would be something that would be possible and I saw there's a storage unit right down the road from the Town Hall as well. This self storage or easy storage I think is what it is called.

Mr. Gilpatrick: Right and that if I canvas, that may be a part of the conversation that we had about the 2500 square feet that building could likely be under 2,500 square feet and that's why it was allowed. The reason why I asked Gesine to come in is because this is the third or fourth inquiry that I have had about self storage units. I don't know if it's something that the Town of Acton wants to move towards but as long as it's under 2500 square feet it could be used as like a as another type of commercial usage in certain zones. Mr. Long: My oneness down here was put in before the restrictions were put in and we also have another one up to Young's Ridge; that one might have been done after the restrictions were put in. I don't know, I wasn't on the Board at the time. I'm just talking my opinion. We've had, we've allowed commercial in residential areas. To me the goal, what's in best interest for the Town is to keep as much business on RT 109 as we can. First off, it's a cost saving s to the Town because we're not repairing the roads that people are driving up and

down, the State is and I think our Town's full of small businesses and I think that it's something personally that we should encourage.

Mr. Maloney: What is the proposed size of your structure? Mrs. Weller: So, I'm in the early stages to even find out if that was an option. I don't have plans and stuff yet because I wasn't sure if I would be allowed to move forward with that like mini storage, and I wasn't sure if I was going to have and I wanted to make it appealing it would be accessible from 109. Make it like nice looking that it's you know nice either I thought about maybe shipping containers to either split up inside so you have different sections for mini storage depending on what sizes or have a metal building built that people could store, you know, whatever, just self storage or cold storage; storage like that.

Mr. Maloney: I was just going to point out. I don't know if you are aware that the Planning Board's putting forward an amendment to the zoning ordinance to include the construction of storage buildings. What we are putting forward is storage buildings not exceeding 5,000 square feet, so I'm pretty sure it would apply to what.. Mrs. Weller: What square footage did you say? Mr. Maloney: Not exceeding 5,000. Mrs. Weller: Okay. Mr. Maloney: Ok. Mr. Maloney: Yeah. So okay, you're under 5,000 which it seemed like...Mrs. Weller: I didn't know that you guys are working on...Mr. Maloney: What this document we're putting forward seems like..Mr. Gilpatrick: That is in, that is in for the next vote. Mr. Whitman: Then again for a Town meeting. Mr. Gilpatrick: That was one yeah. Mr. Maloney: I'm just putting out there that it's on the radar of the Town and that it would be sensible perhaps to look at your application as a conditional use because that's what it would be if this thing was to be voted in. Mr. Long: Then I would say that you want to get the ball rolling and get your conditional use in before Town meeting. (Yeah) Mrs. Weller: I can hustle. Mr. Long: That is what I would do. Then you don't have to take the chance. Mrs. Weller: Okay. Mr. Long: That is what I would do myself. Mr. Maloney: Because does that makes sense to everyone that it would be a conditional use in this case? (Yeah.) Since it's not in the ordinance, we don't know what it would be, but, okay, yeah. Mr. Long: You never know what Town meeting is going to do. Mr. Maloney: It works for me.

Mrs. Weller: Just to make sure, so get everything in order and lined up like plans drawn up and stuff and then go to the Code's office to put in the application for that? Mr. Maloney: Yeah. Mrs. Weller: Ok. Mr. Driscoll: What he just read her, is that mixed in with some of the Planning Board articles? Mr. Long: They're all, they're going to be individualized I believe. Yeah, just meet with Mike and Kristiina and they will... Mrs. Weller: Okay. Yeah, Mike had encouraged me to come tonight because you know to try and figure out how I would go about it. Mr. Long: You'll stay in the right direction. Mrs. Weller: Yeah, okay. Thank you. Mr. Long: I would just encourage sooner than later. Mrs. Weller: Okay. I will hustle. Have a wonderful evening. Good to see you too. Mr. Driscoll: Drive safe. Mrs. Weller: Bye.

Mr. Long: I don't know if we are supposed to give that advice or not but I say a lot of things I'm not supposed to say, so... Mr. Gilpatrick: Well, we'll get her application going and get her in the queue before June. Right, anybody would do that. Mr. Long: I would hope.

## **Election of Executive Secretary**

Mr. Whitman: We will do the election of the Executive Secretary. Mr. Long: Do you want to explain that Mike? What the Executive Secretary really is. Mr. Gilpatrick: Not really, but I will. I suppose. Mr. Maloney: Does everybody have a copy of these bylaws? Mr. Gilpatrick: Well actually I'm looking for it now. Mr. Maloney: It might have been well done. Mr. Long: I'll just shut up then, they'll ask Mike to do it. Mr. Gilpatrick: Oh, you can do it. Explain it man, you know.

Mr. Long: Well, the Planning Board itself has to have a secretary, elect a secretary that is part of the Planning Board. That's the Executive Secretary. Now the exact responsibilities of this, I don't know because I... thank you Kristiina, Kristiina was nice enough to give it to me. The Executive Secretary shall be responsible for approval of all information including but not limited to conditions set when issuing permits before the Recording Secretary types the minutes and signing the Planning Board minutes after acceptance as is or with corrections. So what that Executive Secretary really does is.....I know one thing if we have a site visit, they have to record whoever is at the site visit. That is one of their responsibilities. And, then you

work with Kristiina to make sure everything is the way it is supposed to be so when the minutes come to this meeting, they are accurate and there's poor Kristiina trying to figure out what Dennis Long said; that the meeting is more than one person because sometimes it is kind of hard. Jim knows I go around in circles. But, basically that's it but it has to be some member of the Board.

Mr. Maloney: Can it be an alternate member? Mr. Long: Yes, yes, because Donovan was. Mr. Maloney: So it happened to happen. Mr. Long: Past practices, it can be an alternate.

Mr. Gilpatrick: This says the Chair and the Vice Chair shall be full members but it is silent on whether the Executive Secretary has to be a part of the Board. Mr. Long: Well, as I said, past practice, we have had Alternate members as the secretary. Donovan was the last time we had a secretary Gavin (Yep, Yep.) and he was an Alternate. Mr. Maloney: Yeah. Before we end, the duties are actually less than they used to be because they often send the camera person with us on the site walks now. Mr. Long: Well, now they started doing that but I think you still have..Mr. Maloney: Still have to take minutes, but there is some reporting. Mr. Long: I think you still have to, by law, record who's at the site visit and stuff. Mr. Maloney: Yeah, yeah. But they don't have to take quite as detailed minutes because we have the knowledge. Mr. Long: It was there. (Yep) That's how it's been (Yeah) and the when the Executive Secretary runs the meeting or opens the meeting if the Chair and the Vice Chair are absent. (Yep.) We've only been through that one time that I know of but it did happen and the Executive Secretary is the one who opens the meeting up. Mrs. Pearson: That settles it then. Mr. Long: What's that? Mrs. Pearson: It settles that you can run a meeting. Mr. Long: Right, so who is going...inaudible speaking from group. Mr. Long. Mr. Whitman: I'd like the nominations. Mr. Long: No, I've got enough. I appreciate it but no.

Mr. Whitman: I look for nominations? Mr. Long: I nominate Pat. Mrs. Pearson: I nominate Dennis. I decline. Mr. Long: Now we are down to John. Mr. Whitman: Yes, Jim's busy. Mr. Gilpatrick: Does Kristiina get to decline. Mrs. Robinson: It has to be a member of the Board. Mr. Long: Yeah, that's it. Mr. Gilpatrick: I know I was talking about... Mr. Long: Is that the law or is it in the bylaws? Mr. Gilpatrick: That's the bylaw. Mr. Long: But, is it a State law? Mr. Gilpatrick: It is a State law that you are supposed to have three officers. You're going to have a meeting, the Vice, the Chair of the Vice, Secretary. Mr. Driscoll: All Board members? Mr. Long: Yeah and the Chair and the Vice Chair can't be Alternates. I personally, I just can't do it. I got too much going on with the other committees, (I'm the same way.) with each of my Grandchildren's school. Mr. Whitman: Gavin and I can't. Mr. Maloney: We tried. Mr. Long: Well, the thing is I guess that you know, I myself personally I mean Pat declined, but I'm able to mind nominating Jim. Mr. Driscoll: Jim who? Mr. Long: Driscoll, old buddy. He didn't decline. Mr. Whitman: Do I have a second? Mr. Driscoll: No, I can't. (No?) I have so much stuff going on right now. Mr. Long: It can't be Gavin because he's a Vice Chair. (Yep.) Unless you want to step down as Vice Chair and do it again. Mr. Maloney: I'm good. Mr. Long: You're all set? Mr. Maloney: I'm happy with Vice Chair. Mr. Long: Okay. Mr. Whitman: Well, maybe we can get a new member and ask them. Mr. Long: Yep, we'll table it for another month, well to our next regular meeting because our next two meetings are on Zoom. Right? (That's right.) Mr. Driscoll: Let me think about it for a little bit just all of the sudden. Mr. Long: Well, you know me, I don't like to put you on the spot yet. Mr. Whitman: We can come back here, we can come back to it, table it for now.

## **MMA Training**

Mr. Gilpatrick: Our last item? Mr. Whitman: The last item is MMA training. Mr. Gilpatrick: Mr. Chairman? Mr. Whitman: Yeah. Mr. Gilpatrick: I get a lot of these trainings via email and I thought that this one is geared, it's very basic training. It's geared for the both the Planning Board and the Board of Appeals for new member specifically. I have got approval from the Town to fund training. I just really need a show of hands of how many people would like to go. It's going to be April the 21st the 22<sup>nd</sup>. I'm sorry. It's from 4 pm to 7:30 pm. And, that's also a Zoom meeting from MMA. So, they'll be hosting that. Mr. Driscoll: How do we sign up Mike? Mr. Gilpatrick: Raise your hand. Mr. Whitman: It's like you're going to Portland. Mr. Gilpatrick: No, it's a Zoom meeting. You can do it from home, do it here, wherever you have capability. Mr. Whitman: I'll do it. Mr. Gilpatrick: Ok. Chairs going to do it. One, three, four... Get it? Mr. Whitman: Gavin? Mr. Maloney: I'm not sure. I have done one with.. MR. Long: No, I'm not going to do it. I just don't have time. I tell you, it's crazy. Mr. Whitman: John? Mr. Qua: Yeah. Mr. Whitman: Jim? You kept saying there was four. Mr.

Gilpatrick: Just four of us? Myself too. Great. Mr. Driscoll: Can you send us a link? Do we just jump into the Zoom? Mr. Gilpatrick: Yes, we'll send you, we'll send you a link and all of that. Mrs. Robinson: Jennifer's gonna set you up with your, your email. Mr. Gilpatrick: Okay. Mrs. Pearson: I had trouble accessing that last time. I could access it the first time I get into it but ever since, I can't get into it. Mr. Long: Yeah, a lot of problems. You're using your phone Pat? Mrs. Pearson: Sometimes yes. Yeah, more often than, more often than not. Mr. Long: Yeah, talk to Jen about that because I know past members on the Planning Board and Warrant & Finance Committee (Thursday again) whatever yeah fix it.

Mrs. Pearson: So Kristiina, if you wouldn't mind sending it to the other email that I have so that I don't miss out. I can get the link. Mr. Long: Yeah, cause she'll, she'll do something. She did it with...Mr. Whitman: We've got everybody's contact right, so we can just call him if we need... Mr. Long: One time when I was here and Taco was here doing something, he had said he hadn't gotten the webmail. (Okay) and she took his phone and did something.

Mr. Gilpatrick: So, we are going to table the election of Secretary to the next meeting? Mr. Whitman: Yeah we'll table the election to next the secretary to the next meeting until absolutely. Mr. Long: Until after the Zoom meeting. Mr. Whitman: Yeah, we'll table it to May; the first meeting in May. Mr. Long: I know from experience Chris, when you do these Zoom meetings It is not the easiest thing in the world. Mr. Whitman: Yeah, it's not a good time. Mr. Long: You know it can go good but you can lose people, people go away, they come back and you get up somebody hacks in. Mr. Gilpatrick: Somebody hacks in like last time. Mr. Long: Yes, that wasn't nice.

Mr. Whitman: A motion for adjournment?

**Adjournment:** Dennis Long moved adjourned the meeting. Gavin Maloney seconded; motion passed 5-0.