

**TOWN OF BOWDOINHAM
PLANNING BOARD MEETING MINUTES
VIRTUAL MEETING VIA ZOOM MEDIA
DECEMBER 16, 2020 – 7:00 P.M.**

MEMBERS PRESENT: Nate Drummond
 Tracy Krueger
 Justin Schlawin
 Reeve Wood

MEMBERS ABSENT: Alyson Dame and William Shippen (It was noted that Mark Favreau has resigned from the Planning Board as he has been appointed to serve on the Select Board.)

STAFF PRESENT: Darren Carey (Nicole Briand, Director of Planning and Development joined the meeting in progress.)

On Thursday, December 16, 2020, a meeting of the Bowdoinham, Maine Planning Board was held via Zoom media with everyone participating from their residences due to the Covid-19 Pandemic.

It was noted on the agenda that, for the time being, the Town of Bowdoinham will be conducting public meetings via video conferencing. This is in accordance with emergency legislation (PL 2019, c. 617) enacted by the Maine Legislature on March 17, 2020, which temporarily authorizes remote participation at municipal board and committee meetings by board members and the public.

*If joining by computer you may be required to download the Zoom app in order to connect. This is free and easy to use. Make sure to log in a few minutes early to ensure you can connect. The meeting link can be found under
<https://us02web.zoom.us/j/89411485907?pwd=b0iTFYyMOw5ZDBGdFM2RWdkcFdjUT09>*

If joining by phone, if you cannot join by computer, you may call into public meetings and participate by phone. At the time of a scheduled public meeting, call (646) 876-9923. When prompted, the meeting ID is 894 1148 5907 and the password is 281934.

1. CALL TO ORDER

Chairman Drummond called the meeting to order at 7:00 p.m.

2. DETERMINE QUORUM AND VOTING MEMBERS

It was determined that a quorum was present.

3. APPROVAL OF THE MINUTES FROM THE OCTOBER 22, 2020 MEETING

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Motion was made by Reeve Wood, seconded by Tracy Krueger, to approve the minutes of the October 22, 2020 minutes as amended.

VOTE was called and the motion was unanimously passed.

Amendments included:

- Page 2: 2nd Par., change “Geologist” Carol White, to “Hydrogeologist” Carol White.
4th Par., under “Attorney John Bannon, change “Abacadasset” to “Abagadasset.”
Last Par., change “Asmossen’s” to “Asmussen’s.”
- Page 3: 4th Par., should begin “**Dave Asmussen** – Mr. Asmussen.”
6th Par., last line, change “their well” to “their lot.”
- Page 4: 1st Par., change “Lane” to “Land.”
5th Par., Remove sentence “Mr. Schlawin agreed but suggested the Board not request same until the project has been approved by the Select Board” and replace with “Mr. Schlawin agreed but suggested we consider approval of a Containment Plan before considering approval.”
- Page 5: 2nd Par., 4th line down, end sentence after “a certain period of time.” And eliminate “and a Plan that includes the transporting of the vehicles, unloading and delivering.”

4. SETBACK DETERMINATION – APPLICANT PAMELA HANSON IS PROPOSING TO EXPAND A NON-CONFORMING STRUCTURE BY CONSTRUCTING A GARAGE, BREEZEWAY AND PORCH AT 5 SPRING STREET, MAP U01, LOT 104

Applicant Pamela Hanson is proposing to rebuild a house at 5 Spring Street that will include a 24’x36’ style house, a 10’x12’ mudroom on the rear side, and an 18’x24’ garage. Ms. Hanson included a photo with her application of the house which was taken in 1962. She said they had not planned on taking the house down but the wood was rotted throughout and it was infested with ants.

Chairman Drummond said this application falls under Article 3, the Non-Conformance section of the ordinance. The application is a combination of a re-construction or replacement of a non-conformance building. He said the Board needs to be sure the proposed structure will be placed back to the greatest extent possible, given the site. There is a leach field behind the structure being proposed, so the structure cannot be moved back any further than shown on the plan. The non-conformance is related to the front property line.

Ms. Hanson said the original house had a large porch which will not be included on the new structure and therefore the new house will be less non-conforming than the original house. The existing driveway will remain in the same place.

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Letter is in file from Reuben J. Wheeler, P.L.S. from Wheeler Surveying, dated December 10, 2020, explaining his field investigation to determine the legal width of the right-of-way for Spring Street.

After hearing all comments, motion was made by Mr. Wood, seconded by Mr. Schlawin, and it was unanimously

VOTED

That the Board finds that the proposed project does not increase the linear extent of the non-conformance of the building, and therefore does not increase the non-conformity of the structure.

Motion was then made by Mr. Wood, seconded by Mr. Schlawin, and it was unanimously

VOTED

That the Board finds the proposed reconstruction and use shall not be more non-conforming than the former non-conforming use during the reconstruction and replacement and the application is therefore approved.

Planner Briand joined the meeting at this point.

5. SITE PLAN REVIEW – TIER 2 APPLICATION FROM WILLIAM PANZINO WHO IS PROPOSING TO DEVELOP A CAR LOT FOR THE PURPOSE OF RECYCLING VEHICLES, WHICH WORK WILL TAKE PLACE IN AN EXISTING GARAGE. THIS PROPOSAL IS ONLY FOR THE TEMPORARY STORAGE OF VEHICLES. IT IS NOT FOR A PERMANENT VEHICLE GRAVEYARD

It was noted that this meeting is a continuation of a Site Plan Application. Chairman Drummond said there are several new materials submitted since the last meeting. A memo was submitted to the Planner and copied to the Board from Mr. Panzino dated December 10, 2020, subject being “This is my Plan. Please read it and forward it to all the Board members.” The memo included Mr. Panzino’s Plan on How to Get a Car To The Shop;

- How he will remove the battery, catalytic converter and rims;
- Storage of Catalytic Converters;
- Storage of Batteries;
- Storage of Aluminum Rims;
- Finishing Process;
- Event of an Unlikely But Possible Fluid Spill; and
- Spill Prevention Plan.

An estimate for cleanup, should a spill occur was submitted from Clean Harbors. A Financial Statement was submitted from Mr. Panzino’s bank showing his accounts. A copy of a premium

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statement was submitted from an insurance company as well as e-mail correspondence from his insurance representative. An additional spill cleanup quote was submitted from the Environmental Protection office in Auburn.

Chairman Drummond said during the October meeting the Board worked through the performance standards and the Board struggled whether or not the standards were adequately met in regards to water quality and environmental impacts. At the end of the meeting the Board requested several different materials from the applicant from various services; a cost estimate for spill cleanup and a copy of an insurance binder for liability coverage and coverage for hazardous spills. There was discussion of the applicant meeting with the Select Board to decide if the applicant met the State standards. Chairman Drummond asked Mr. Panzino if he has met with the Select Board. He responded that he has met with the Select Board two times. Chairman Drummond asked the applicant if he intends to move forward with the application at this time on the existing lot and with the existing plans for not removing fluids from vehicles. Mr. Panzino said “yes I want to proceed. When I met with the Selectmen, it seemed they were on board.”

Chairman Drummond said if we proceed with any decision based on an application where you are not going to be removing fluids from vehicles, and if the Select Board determine that you must remove the fluids and want you to operate from a different lot, you would need to come back and submit a revised application. Mr. Panzino said he understood.

Board members were asked if they had any questions for the applicant regarding the new materials he submitted. Mr. Wood said when we talked about the spill prevention plan, there were two tracks we were talking about. One was preventing spills at all and the second was to be sure you were set up so if something did happen you would have insurance to protect your neighbors. Mr. Panzino said he will have an insurance policy to cover and as he intends to pick the car up by the roof, there will be no change of spills occurring. Mr. Wood said he thought at the last meeting that the applicant would work with some kind of outfit that would handle spill prevention professionally and say here are the things that should be in place for this operation. Mr. Panzino said he is working with Anthony Ortiz, Engineer and contact man from St. Germain in Westbrook. Mr. Ortiz also talked with the Planner. Mr. Panzino said Mr. Ortiz who told him that his planned operation is too small to write a plan for, and even if they were to do it, the cost would be in the area of \$1,000 just to get it started and could not be done any time soon. Mr. Panzino said St. Germain people told him if he was planning an operation like Grimmel in Pejepscot, then that’s when a spill prevention plan would be necessary.

Chairman Drummond asked Mr. Panzino if he wanted to proceed without a third party source. He said the Board will have to decide if what you provided adequately protects water quality issues. Suggestion was made that Mr. Panzino send his plan to an engineer who would write on it that it would be adequate. Mr. Panzino responded that he already sent his plan to Mr. Ortiz who said it was a “very nice plan.” He has the text message on his phone. The Board asked that the applicant have Mr. Ortiz put in a formal email or letter saying “Mr. Panzino, I reviewed the plan you sent

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me and it does meet industry standards.” The applicant responded that Mr. Ortiz is getting irritated with him and asking for this would probably cost \$1,000. Mr. Panzino said he has been working with cars all his life and has never spilled one drop of oil or gas on the ground. He asked the Board to “give it a shot and go with it” to trust him. Chairman Drummond said his personal challenge is that we have a scenario where the risk is relatively small, but the consequences are not just your property but the potential is also to surrounding property and their water source. Mr. Panzino said there are always going to be risks in life. He said how does the Board know that Roberts Auto isn’t going to spill oil tomorrow.

Chairman Drummond said the Board needs something to stand on besides knowing you are a great mechanic. He said the containment you set up with those vehicles in the woods and you are not able to check on them for some reason, you will not be able to deal with a spill. Applicant said he will be on site every day and that we have been dealing with this for almost a year and it is wearing on him.

Discussion continued on level of coverage on the proposed insurance policy. Applicant said he is covered up to a million dollars. He said the policy is a general business liability policy. Chairman Drummond said unless it specifically says it will pay to clean up costs, it will only cover you for any liability suits. It may or may not cover for hazardous material spills. Mr. Panzino said his bank statement proved if he had to, he would pay for the cleanup. Mr. Panzino said “You guys asked for a liability insurance statement and I gave it to you. You asked for my bank statement and I gave it to you and I proved I had sufficient funds to start this business.” Mr. Panzino said he can’t understand why the Board is trying to not make his business happen.

Michael Murphy started talking. Chairman Drummond noted this is not a public hearing. Mr. Panzino said he invited Mr. Murphy. No further comments were made.

Board Member Krueger asked if the Planner has anything to add. Ms. Briand said there was a pre-application with the Select Board to see if they needed anything to move forward. They met on 3 occasions and at the 3rd meeting they said the applicant has to provide information to prove that he meets the State Standards and Mr. Panzino now has submission materials to submit to the Select Board. The Select Board can waive they submission requirements the Site Plan Review Permit as a condition of approval so that way they can review the license application ahead of the Planning Board application. Mr. Briand suggested the Board go through the Performance Standards to make formal findings and then go through the approval process.

The Board then went through the Performance Standards:

1. **Vehicular Access** - The proposed site layout will provide for safe access to and egress from public and private roads.

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Finding: No issues. The Board found that the materials provided show no issues. The Board found the public road existing has no concerns from Public Works or any other and is adequate for the proposed use.

2. **Internal Vehicular Circulation** - The proposed site layout will provide for the safe movement of passenger, service, and emergency vehicles through the site. The applicant proposes to use loader to move the vehicles to storage site. The applicant will not drive over the existing septic system. The Fire Chief requested the dirt access way to the car storage area be expanded to 12 feet, which the applicant agreed to do. No vehicles are to park in the access way to it is open for use as a fire lane.

Finding: The Board finds Internal Vehicular Circulation to be adequately met.

3. **Pedestrian Circulation** - The proposed site layout will provide for safe pedestrian circulation both on-site and off-site.

Finding: The proposed use does not include the need for pedestrian circulation so this approval criteria is met.

4. **Municipal Services** - The development will not have an unreasonable adverse impact on municipal services, including municipal road systems, fire department, solid waste program, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

Finding: The application has been viewed by the fire chief and his requests have been met and no other municipal concern has been expressed; therefore, Municipal Services is approved.

5. **Visual Impact** - The proposed development will not have an adverse effect on the scenic or natural beauty of the area, including water views and scenic views.

Finding: We find that the proposed development and use on the site consists of two parts – 1, involving the unloading in the driveway and dismantling in the garage; 2 - storage of vehicles will occur several hundred yards from the road in a wooded area and there is existing vegetation between the public road and woods so proposed storage lot is not visible and therefore this approval criteria for visual impact is met.

6. **Lighting** - All exterior lighting will be designed to avoid undue glare, adverse impact on neighboring properties and rights-of-ways, and the unnecessary lighting of the night sky.

Finding: The applicant has not proposed any additional lighting and, as such, this performance standard has been met.

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7. **Signage** - The proposed signage will not detract from the design of the proposed development and the surrounding properties and will not constitute hazards to vehicles and pedestrians.

Finding: The applicant is proposing a sign with this business and will comply with the Town's sign ordinance so this approval criteria has been met.

8. **Buildings** - The proposed structures will relate harmoniously to the terrain and to existing buildings in the vicinity, so as to have a minimally adverse effect on the environmental and aesthetic qualities of the neighboring areas.

Finding: The applicant is not proposing to build any new structures on the property and, as such, this criteria has been adequately met.

9. **Landscaping** - The proposed development will provide adequate landscaping in order to define, soften, and/or screen the appearance of parking and developed areas as well as to enhance the physical design of the buildings and the overall development.

Finding: The Planning Board finds that this proposal has several different locations on the property. The vehicle storage lot is out of sight in the woods and is adequately landscaped without any additional land scaping. The Board finds that the landscaping along the road is adequate as no one spoke of this during the public hearing. Therefore, this approval criteria is adequately met.

10. **Buffering** - The proposed development will provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas.

Finding: The Board finds that in the proposal, the existing landscaping is sufficient to provide adequate buffering and therefore the criteria is met.

11. **Utilities** - The proposed development will not impose an unreasonable burden on existing utilities.

Finding: The Planning Board finds that there are no additional new utilities being proposed for this project, therefore this performance standard has been adequately met.

12. **Water Supply** - The proposed development will be provided with an adequate supply of water.

Finding: The applicant is not proposing any developments that would use water and there is no public water supply associated with the project. Therefore, this performance has been adequately met.

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13. **Sewage Disposal** - The proposed development will be provided with adequate sewage waste disposal.

Finding: The applicant is not proposing any development that will need sewage waste disposal. The applicant lives on the property and the residence does have existing subsurface wastewater system which is adequate for use of the business. There will be no employees hired for the proposed business.

14. **Fire Protection** - The proposed development will have adequate fire protection.

Finding: The Planning Board finds that given the concerns from the fire chief regarding the use of the garage, and the applicant's intention to expand the width of the road to meet the chief's request for easy access to the storage area, this criteria is met. Stored vehicles will not be parked in the driveway to restrict vehicles to the lot.

15. **Capacity of Applicant** – The applicant meets the following criteria:

- a) **Right, Title and Interest in the Property** - The applicant has the right, title and interest in the property.

Finding: The Planning Board finds that the applicants and landowner have demonstrated that they have right, title and interest in the property.

- b) **Financial Capacity** – The applicant has the financial capacity to complete the proposed development.

Finding: The Board has no concerns with the applicant handling the scope of the project in terms of widening the road or operating the business. However, concerns are still on the table that if any serious spills occur which would be costly to clean up, the Board would like to see a business policy which would pay to clean up the spill.

- c) **Technical Ability** – The applicant has the technical ability to carry out elements of the plan including expanding the driveway back to the storage lot.

Finding: The Board feels comfortable that the applicant has the technical capacity to carry out the plans, including the expansion of the driveway out to the storage lot for the business he is proposing. However, #15 has not been adequately met due to concerns for ability to finance cleanup of spills.

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16. **Special Resources**

- a. **Shoreland** - The proposed development will be in compliance with the Town's Shoreland Zoning Ordinance.
- b. **Floodplain** - The proposed development will be in compliance with the Town's Floodplain Management Ordinance.
- c. **Wetlands & Waterbodies** - The proposed development will not have an adverse impact on wetlands and/or waterbodies, to the extent that is practicable.

A, b, c....

Finding: The proposed project is not located within the shoreland or floodplain. There is a wetland that runs through the property where the vehicles will be offloaded and where the applicant proposes to store the vehicles. During the site walk, it was noted that the lot is avoiding the wetland as much as practicable. There is no work on vehicles proposed by the wetland. Given the location of the wetlands on the site and that the vehicles are not near it, we feel the performance standards for a, b and c are met.

17. **Historic and Archaeological** - The proposed development will not have an adverse effect on historic and/or archaeological sites. There is a historical cemetery on the site abutting the applicant's property and the applicant has adjusted the area to be adequately away from the cemetery and will in no way damage the historical area.

Finding: The applicant relocated the proposed car lot to provide a greater setback from the historic cemetery located on the property.

18. **Groundwater** - The proposed development will not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems.

Finding: The proposed development and use on the property does not involve public water supply systems.

19. **Wildlife Habitat** – The proposed development will not have an undue adverse effect on rare and irreplaceable natural areas.

Finding: The Planning Board did not identify any habitat or irreplaceable natural areas on the property and therefore find that this standard has been met.

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20. **Natural Areas** – The proposed development will not have an undue adverse effect on rare and irreplaceable natural areas.

Finding: The portion of the property in the vicinity to be used for unloading or storing vehicles is not designated in the Comprehensive Plan and the Board finds that #20 has been adequately met.

21. **Environmental Impact** – The landscape will be preserved in its natural state to the extent that is practical by minimizing tree removal, disturbance of soil and retaining existing vegetation.

Finding: The applicant is proposing to develop a small vehicle storage lot in the woods and has chosen to locate it in an area that will require minimum clearing which Planning Board members verified on the site walk and given the nature leading to that area, only minimal road work will be needed to access that lot and the proposed use and development does not add permeable surfaces and just grass and soil and therefore meets this performance standard.

22. **Solid Waste Management** – The proposed development will provide for adequate disposal of solid wastes.

Finding: The applicant is proposing to only keep vehicles on site for less than a week and will not produce solid waste as the vehicles will be taken away. Therefore, the Board finds this performance standard has been adequately met.

23. **Hazardous, Special and Radioactive Materials** – The proposed development will handle, store and use all materials identified as hazardous, special or radioactive in accordance with the standards of Federal and State Agencies.

Finding: While the applicant is proposing to work with vehicles with fluids in them that could be termed hazardous, he does not propose to handle, store or use materials or any bulk storage of greater than 1000 gallons. Therefore, the Board finds this performance standard has been adequately met.

24. **Air Quality** – The proposed development will not result in undue air pollution or odors.

Finding: The applicant does not propose to use anything to add pollution or odors to the air. No abutters have raised any concerns with air quality. DEP and EPA Standards will be met, so the Board finds this approval criteria met.

25. **Water Quality** – The proposed development will not result in water pollution.

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Finding: The Board is concerned about the risk for contamination during the process of the business of a vehicle being stored in the woods. The Board requested that the applicant use best management practices for the handling of vehicles and fluids to minimize the risk.

Board members suggested that the applicant have someone at Maine DEP look at the applicants plan and say it is OK. Or and environmental/engineering business say they have looked at your plan and that it meets the industry standard. Therefore, #25 is not yet met.

26. **Stormwater** – The proposed development will provide for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other impervious surfaces, which must not have an adverse impact on abutting or downstream properties.

Finding: The applicant is not proposing much in the area of impervious surfaces so #26 is not applicable.

27. **Sedimentation and Erosion Control** - The proposed development will take adequate measures to prevent soil erosion and the sedimentation of water courses and waterbodies.

Finding: The applicant is proposing limited development with only some clearing so there will be no erosion or sedimentation. Therefore, the Board finds this performance standard is met.

28. **Noise** - The proposed development will control noise levels so that it will not create a nuisance for neighboring properties.

Finding: The applicant will work only during the day and there were no concerns expressed from abutters, therefore the Board finds this performance standard met.

6. **OTHER BUSINESS** – No action was taken.

7. **ADJOURN MEETING**

With no further comments to be heard, the meeting was adjourned at 10:00 p.m.