

MINUTES OF PENOBSCOT ZONING BOARD OF APPEALS (P-ZBA)

HEARING OF APPEAL OF EATON HOLDING LLC SUBDIVISION PERMIT OF 12 NORTHERN BAY RD
PENOBSCOT ME 04476

07/28/25 MEETING CALLED TO ORDER @ 6:29PM

PRESENT:

TOM ADAMO, CHAIR

JEFF BERZINIS

STEVE SKILLIN

TROY STAPLES

DAVID KOENKA

JANINE KIMBALL, SECRETARY

TOM – INTRODUCTION OF MEMBERS AND READING OF AGENDA

PUBLIC DENOVO MEETING AGREED TO AS A GROUP BY THE P-ZBA– CHAIR WAS NOT AWARE OF AMOUNT OF INFORMATION THAT HAD BEEN DOWNLOADED ONTO THE TOWN WEBSITE – NO ONE INFORMED HIM – START OF MEETING TO REVIEW NECESSARY DOCUMENTS AND REVIEW MAPS

DETERMINE STANDING OF APPELLATES – PARTICULARIZED INJURY - EVERYONE DEEMED TO HAVE STANDING PER AGREEMENT OF P-ZBA BY QUESTION FROM THE CHAIR

“NO ONE AT THE TABLE HAS VESTED INTEREST IN DECISION EITHER WAY”

TIM BEIDEL – SPOKESPERSON FOR APPELATES (SP -A)– SHOULD THE APPEAL BE RE-WRITTEN?

CHAIR – CANNOT ANSWER THAT – CANNOT TELL THE APPELLATES WHAT TO DO

CHAIR– ERROR IN LAW IN FACT: WHAT LAW REFERRING TO AND WHAT EVIDENCE?

– APPLICABLE LAWS PRINT OFF – 6 PAGES

CHAIR -- BURDEN OF PROOF W/APPEALANTS

MUNICIPALITY RESPONSIBLE FOR PPRWK TO BOARD MEMBERS

SP - A-- PUBLIC CONVERSATION ABOUT APPEAL

SEASONAL STREAM – INTERMITTANT STREAM BROUGHT UP ALONG WITH 2ND VERANL POOL REPORT

DISCUSSION OF WATER/SEPTICS/WELL

CHAIR - SOIL TEST – SIGNATURE BY DEVELOPER TO BE RESPONSIBLE – WE HAVE NO STANDING W/SEPTIC AND WILL NOT BE ABLE TO RULE ON ANYTHING TO DO WITH SEPTIC

WILL CHECK WITH THE MAINE MUNICIPAL ASSOCIATION (MMA) – WHETHER OR NOT WE CAN HANDLE APPEAL OF PLUMBING

CHAIR -- MMA SUGGESTED THE TOWN SPEAK WITH THEIR LAWYER

SUBDIVISION PERMIT WAS APPROVED PENDING PERMIT

THE P-ZBA ARE THE ONLY ONE TO APPEAL VARIANCE ONCE THE STATE HAS APPROVED

DISCUSSION OF EASEMENT GIVEN TO THE NURSING HOME – TRANSFERRED TO THE NEW OWNER EATON HOLDINGS (SKIP EATON) REPRESENTED BY JAIME MCNAIR (SP - EATON)– UP BEHIND THE HISTORICAL SOCIETY – ISSUE BECOMES PRACTICALITY

“WAS DISCUSSED W/THE STATE” PER SP - EATON

SP – A – PLANNING BOARD NOTES RE: WATER –

CHAIR – P-ZBA CANNOT ADDRESS ANYTHING TO DO WITH WATER AND SEPTIC

SP -A -- TOWN ORDINANCES ARE MORE RESTRICTIVE – WHERE DO WE GO? WHO IS RESPONSIBLE TO UPHOLD

CHAIR – CDC DEALS WITH/HANDLES PUBLIC WATER DECISIONS

***10 MINUTE BREAK – RESTART @7:30

CHAIR—ANY APPROVAL OF DEP? – “HAS BEEN THERE” PER SP - EATON

BRYCE FARNHAM CEO/LPI NOT IN ATTENDANCE TO ANSWER QUESTIONS

CHAIR – WE REALLY NEED TO LOOK INTO PLUMBING WORK WITH CEO/LPI TO VERIFY EVERYTHING IS MET -- HAS THERE BEEN A CHANGE SINCE PERMIT APPROVED? – NO REAL ANSWER FROM ANYONE -- VARIANCE ON PLUMBING – LOOK INTO WITH MMA

THERE WILL BE A NEW APPLICATION FOR PHASE TWO – PENOBSCOT PLANNING BOARD{PPB}/SP-EATON

SP – A/PLUS OTHER APPELLANTS --LONG CONVERSATION ON PUBLIC WATER SET BACK

PHASE ONE DOES NOT INCLUDE PUBLIC WATER – PERMIT IS FOR PHASE ONE – PPB

BAILEY BOWDEN AND CHAIR DISCUSSED NEW MAINE LAW -- LD 1829 MUNICIPAL HOME RUL
APPLY – WHICHEVER IS MORE STRINGENT – LPI HAS THE FINAL WORD

SP – A/APPELLANTS -- CONTINUED DISCUSSION ON PUBLIC WATER SUPPLY

PPB- PHASE ONE APPROVED PERMIT – TWO (2) BUILDINGS WITH APARTMENTS AND TWO (2)
DUPLEXES – WITH CONDITIONS

CHAIR -- STATE WILL SUPERSEDE US REGARDING WELL AND SEPTIC

CHAIR – FINDINGS OF FACTS THAT ARE UNKNOWN PER GROUND ONE OF APPEAL

MEETING TO BE CONTINUED ON AUGUST 4TH TO ADDRESS OTHER GROUNDS AND ALLOW
CHAIR TO SPEAK WITH MMA REGARDING WHAT THE P-ZBA CAN ADDRESS.

MEETING ADJORNED ~ 8:30

MEETING P – ZBA 8/1/25 (MOVED UP FROM 8/4/25 AS CEO/LPI HAD CONFLICTING SCHEDULE)
MEETING CALLED TO ORDER AT 6:30PM

IN ATTENDANCE

TOM ADAMO, CHAIR

STEVE SKILLIN

TROY STAPLES

DAVID KOENKA

JANINE KIMBALL, SECRETARY

JEFF BERZINIS ABSENT

CONTINUATION OF HEARING OF APPEAL OF EATON HOLDING LLC SUBDIVISION PERMIT OF 12
NORTHERN BAY RD PENOBSCOT ME 04476

CHAIR -- DENOVO MEETING – OPENING STATEMENTS SUGGEST THAT THE MEETING BE HELD TO
2 HOURS – EVERYONE IN ATTENDANCE IN AGREEMENT -- WAIVES READING OF THE MINUTES
OF THE PREVIOUS MEETING – ONCE THE DIGITAL MINUTES HAVE BEEN READ AND APPROVED
BY THE MEMBERS OF THE P-ZBA, THEY WILL BE SENT TO THE SELECTMAN AND POSTED BY THE
CHAIR ON THE TOWN WEBSITE -- TWO (2) WEEKS AFTER DECISION

MOTION AND 2ND BY JANINE KIMBALL TO ALLOW BEN PETERSEN TO SPEAK FOR HIS WIFE SHELLY GRIFFIN –APPROVE – 5 /OBJECT -0 / ABSTAIN -0 -- MOTION PASSES

SP -A -- PAPERWORK THAT WAS HANDED IN BY SP – A, AT THE END OF PREVIOUS MEETING REGARDING THE P-ZBA DOING A STAY OF ENFORCEMENT

CHAIR -- P-ZBA CANNOT DO – CONTRACTOR IS RESPONSIBLE

CHAIR -- MOTION TO DENY STAY OF ENFORCEMENT – 2ND STEVE SKILLIN – APPROVE – 5 / OBJECT – 0/ ABSTAIN – 0 -- MOTION PASSES TO DENY

CHAIR -- WOULD LIKE TO RESOLVE IN A TIMELY MANNER

SP - A – WOULD LIKE TO DISCUSS THAT THE P-ZBA RECONSIDER THEIR JURSDICTION

CHAIR – THE P-ZBA HAS NONE REGARDNG PLUMBING – HAVE SPOKEN THE MMA REGARDING THIS ISSUE

MOTION TO RECONSIDER P-ZBA JURSDICTION – THE P-ZBA HAS NO JURSDICTION FOR PLUMBING – APPEALANTS ARE ASKING US TO SAY THAT WE DO – 2ND TROY STAPLES– APPROVE 0/OPPOSED - 5/ABSTAIN 0 -- MOTION FAILED

SP - A– STATES THAT IN THE TOWN CHARTER THE P- ZBA HAS AUTHORITY

BAILEY BOWDEN MENTIONED HOME RULE – CHAIR EXPLAINED WHAT WOULD BE INVOLVED REGARDING HOME RULE -- A PETITION SIGNED BY 20% OF VOTERS IN THE LAST GUBANATORAIL RACE AND THT THE P-ZBA HAS NO JURSDICTION IN HOME RULE

SP - A– ASKING AGAIN WHERE TO APPEAL PLUMBING ISSUE – CHAIR – AGAIN THE P-ZBA HAS NO JURSDICTION WITH PLUMBING

MOTION TO REMOVE ISSUING HOME RULE FROM APPEAL – 2ND STEVE SKILLIN– APPROVE – 5/OPPOSE 0/ ABSTAIN -0 - MOTION APPROVED

BRYCE FARNHAM CEO/LPI FOR PENOBSCOT -- PLUMBING INSPECTION 7/23/25 – PUBLIC DISCUSSION OF PLUMBING PERMITS P25-08 AND P25-09 -- FEES MENTIONED-- DEVELOPER APPLIED FOR VARIANCE – 40 YR OLD SOIL – SIGNED THAT HE IS RESPONISBLE – WAS GRANTED AT TIME OF PERMITTED

BEN PETERSEN – NOT CONTESTING VARIANCE TO DO WITH SOIL

SP -A - APPEAL PLUMBING PERMITS

MOTION TO ADD THE APPELANTS INTENT TO APPEAL THE PLUMBING PERMITS – 2ND STEVE SKILLIN – APPROVE – 5/OBJECT – 0/ABSTAIN --- MOTION APPROVED

CHAIR -- NOTIFY APPEALANTS WITH NEW VARIANCES CANNOT APPEAL SOMETHING THAT HASN'T HAPPENED

CEO/LPI -- ONLY PERMITTED 2 SEPTIC SYSTEMS -- NO BUILDING PERMIT AS NOT REQUIRED W/MODIFICATIONS OF EXISTING -- SUBDIVISION PERMIT WAS ISSUED -- RENTALS

SP -ZA-- READING OF THE SUBDIVISION RULES -- SEPTIC PERMITS ALL NEEDED TO BE APPROVED

CEO/LPI -- VARIANCE AT LPI LEVEL -- STATE HAS BEEN ASKED SINCE FEBRUARY 2025 TO ANSWER QUESTIONS FROM TOWN LPI -- NO RESPONSE -- APPROVED THE 2 MOST COMFORTABLE WITH

CHAIR -- ASKED ATTENDING MEMBERS OF THE PLANNING BOARD ABOUT DUE PROCESS -- WAS THERE A WALK THRU OF THE PREMISES AT 12 N PENOBSCOT RD -- WAS IT POSTED IN ADVANCE?

CHAIR OF THE PPB -- WALK THROUGH OCCURRED LAST SUMMER -- UNCERTAIN OF NOTIFICATION

CHAIR -- VIOLATION OF SUNSHINE LAW -- MAINE ATTORNEY GENERAL SHOULD BE NOTIFIED

ADDITIONAL QUESTION FROM THE CHAIR TO THE PPB-- BASED UPON THE ABOVE, WOULD YOU HAVE STILL VOTED THE SAME?

HEAD SHAKES IN THE AFFIRMATIVE FROM PPB MEMBERS IN ATTENDANCE

PERMIT WAS APPROVED WITHOUT THE FINAL APPROVAL OF SEPTIC

HAROLD HATCH, FIRST SELECTMAN (FS-P) OF PENOBSCOT TO SP -A -- "IF SEPTICS FOR DUPLEXES MOVED TO BEHIND THE HISTORICAL SOCIETY WOULD THAT RESOLVE THE ISSUE?"-- FS-P ADDRESSED -- SP- EATON "HAVE THEY LOOKED AT IT? "-- YES, COST WOULD BE HUGE TO DEVELOPER -- ALSO WOULD GO THROUGH WET LANDS PER SP - EATON

SP -A -- NEED TO SEE THE WHOLE PLAN

SP -- EATON -- EXPLANATION GIVEN OF WHAT EXACTLY PHASES THERE ARE -- PHASE 1 A + 1B -- RENTAL UNITS IN EXISTING BUILDING PHASE 1A -- DUPLEXES PHASE 1B -- PHASE 2 LATER -- NO APPLICATION SUBMITTED YET.

CONVERSATIONS STARTED TURNING MORE PERSONAL

BROUGHT BACK TO FOCUS BY CHAIR OF P-ZBA

PPB CHAIR -- HOLDING OF SUBDIVISION PERMIT UNTIL SEPTIC APPROVED-- PROCEDURAL STEP - - IT WAS MISSED.

SP -- EATON -- EATON HOLDINGS WILL CONTINUE TO WORK AS BOARD REVIEWS

CHAIR TO APPELLANTS – IF THIS BODY SAYS TO PLANNING BOARD PLEASE REVIEW AND P-ZBA CANNOT ANSWER TO THE PLUMBING AND SEPTIC – WILL THEY BE SATISFIED.

MEMBER DAVID KOENKA ASKED CHAIR “WHAT DO WE NEED TO SEND BACK TO THE PLANNING BOARD” CHAIR – WILL SEND BACK THE SUBDIVISION PERMIT TO RECONSIDER

CONDITIONS AND VARIANCES ARE QUESTIONED – CHAIR EXPLAINS THE DIFFERENCE -- PLANNING BOARD IS ABLE TO DO PERMITS WITH CONDITIONS APPLICANT CAN ONLY DO XYZ IF THEY DO ABC

SP -A – FOUR (4) SEPTIC FIELDS—TWO (2) APPROVED – THAT SHOULD HAVE STOPPED THE PROCESS

PER CEO/LPI – SITE PLAN 1B WITH TWO (2) SEPTICS NOT PERMITTED – ONE NEEDS A VARIANCE ONE TO CLOSE TO ABUTTER’S WELL – WAITING FOR PAPERWORK FROM SP - EATON

CHAIR – RIGHT NOW WE ARE TASKED WITH WHAT IS COMPLETE OR PARTIAL -- FOCUS ON PHASE ONE – TWO (2) PARTS – DECISION TO BE MADE ON PROCESS – NOT GOING BACK TO START OF PERMIT PROCESS WE NEED TO ASK PLANNING BOARD TO REVIEW CONDITIONAL ON WATER & SEPTIC

MOTION TO REFER CURRENT SUBDIVISION PERMIT BACK TO THE PPB TO REVIEW ONCE ALL PERMITS HAVE BEEN ISSUED 2ND DAVID KOENKA-- APPROVE – 5/OBJECT -0/ ABSTAIN -0 – MOTION APPROVED

CHAIR – THIS RESETS CLOCK FOR APPEALANTS

FS- P SPOKE TO EVERYONE

BAILEY BOWDEN SPOKE ABOUT BAY

MOTION TO ADJOURN – 2ND TROY STAPLES – APPROVE – 5/OBJECT – 0/ABSTAIN – 0—MOTION APPROVED MEETING ADJORNED 8:47

NO NEW MEETING CALLED AS REVIEW OF PERMIT SENT BACK TO PLANNING BOARD