

APPROVED

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**MINUTES OF THE NEW CASTLE PLANNING BOARD
Wednesday, July 15th, 2020 – 7:00 p.m. (Recreation Building)**

Public Hearing for a Conditional Use Permit for applicants Darryl and Lisa English, 15 Shaw Circle, Map 10, Lot 11, for excavation and fill along the back side of an existing residence to shore up the foundation by installing a helical pier system all within the 50' wetland buffer.

Continuance of a Public Hearing for a Conditional Use Permit for applicant Stephen D. Eldred, 180 Portsmouth Ave., Map 15, Lot 5, to replace an existing boathouse with a new structure moved further away from the edge of the tidal wetland but still within the 100' tidal buffer.

Members Present: Darcy Horgan, Chair, Tom Hammer, Lorne Jones, Rich Landry, Kate Murray, Margaret Sofio, Bill Stewart.

Members Absent: None.

Others Present: Adam Butler, P.O. Box 988, Portsmouth, NH; Stephen Eldred, 180 Portsmouth Ave., New Castle, NH; Marc Jacobs, P.O. Box 417, Greenland, NH; Monica Kieser and Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, P.A., 127 Parrott Ave., Portsmouth, NH; Keriann Roman, Counsel for the Town of New Castle; Alex Ross, Ross Engineering, 1167 South St., Portsmouth, NH.

Chair Horgan called the meeting to order at 7:06 p.m. Noting a quorum, Chair Horgan indicated that the voting members are herself, Ms. Sofio, Mr. Stewart, Mr. Hammer, and Ms. Murray. Mr. Landry will be a voting member while Ms. Murray is not present at the meeting. Upon Ms. Murray's arrival, Mr. Landry and Mr. Jones are alternates.

1. Review and approve minutes to the June 24th, 2020 meeting of the Planning Board.

Ms. Sofio made a motion to approve the minutes as submitted. Mr. Landry seconded. Motion carried unanimously.

2. Vote to release escrow held for 21 Vennard Court.

Chair Horgan read the recommendation of Town Building Inspector Iain Moodie, who conducted an inspection of the property of Louise K. Green, 21 Vennard Court, Tax Map 12, Lot 4. Mr. Moodie found that everything that had been stipulated in the Planning Board's Notice of Decision had been done according to the stated conditions. Therefore, he recommended the release of the escrow amount.

Ms. Sofio made a motion to release escrow held for 21 Vennard Court based on the inspection done by the Town Building Inspector. Mr. Stewart seconded. Motion carried unanimously.

3. Public Hearing for a Conditional Use Permit for applicants Darryl and Lisa English, 15 Shaw Circle, Map 10, Lot 11, for excavation and fill along the back side of an existing residence to shore up the foundation by installing a helical pier system all within the 50' wetland buffer.

Adam Butler, the contractor for the project, was present on behalf of Applicants Darryl and Lisa English. He described the English's existing property as being situated within the 50' wetland buffer, with the house settling over the years toward the wetland. Framing and alterations had been done to take care of listing symptoms, but did not necessarily address the problem itself. The Applicants would like to do a helical pier system, which involves digging three feet to reach the footing off the back of the foundation. There will be 4 inch galvanized steel pipe supports driven into the backfill and down into the soil. The wetland disturbance would involve the digging and insertion of the helical piers along the back of the house. The helical pier system is frequently used in wetlands, according to Mr. Butler. He estimated that the digging would take about one week and can be done with a mini excavator.

Mr. Butler added that they would also be replacing a deck that has to be removed to perform the work. The deck will have new framing but would measure the same dimensions. The back of the house will have crushed stone fill. He discussed the use of coconut coir, which is a nutrient-based silt sock that will enhance the stability on the slope into the wetland.

Chair Horgan read the Notice of Decision of the Conservation Commission. The Commission unanimously approved the application with the permanent use of coconut coir as well as the use of a tarp system to prevent water runoff.

Ms. Murray asked about the coconut coir. Mr. Butler explained that it biodegrades within a few years. She asked about vegetation to replace the coconut coir, to which he noted that the existing native plantings will continue to grow. Ms. Murray also inquired about possible blasting and what will happen if they hit any ledge. Mr. Butler replied that beyond about six feet into the ground is glacial till. Since this is compacted, they would just need to dig down to the till, and if they hit ledge, they will stop. He noted that they look for resistance on the meter when drilling the cores.

Mr. Hammer asked when the listing issue was discovered. Mr. Butler states that when the Englishes first bought the house less than two years ago, everything looked level, but by last winter, they realized that the first floor was already sinking after being shored up. Mr. Hammer also asked if the concrete is disintegrated at all, which Mr. Butler said it was not.

Chair Horgan opened up the hearing to the public at 7:24 p.m. Hearing no public comment, she closed the public hearing and brought it back to the Board at 7:24 p.m. Chair Horgan commented that she attended the Conservation Commission meeting and did a site walk. She feels that the proposed work is necessary and is being done in the least intrusive way.

Mr. Jones asked if the galvanized pilings are designed to withstand salt water. Mr. Butler stated that they were designed for this environment. Mr. Hammer wondered if Mr. Butler has confirmed if there is a footing, given that if there is no foundation, there would be nothing to attach the pilings to. Mr. Butler explained that there are concrete masonry units (CMUs) that go down about 2.5 feet.

Chair Horgan went through conditions “a” through “g” under §9.2.5.2. All members voted that each of the conditions had been met. Chair Horgan noted that for condition “f”, permits were not required in this case.

Mr. Stewart motioned to approve the conditional use permit application for Darryl and Lisa English located at 15 Shaw Circle, Tax Map 10, Lot 11, as received by the Town in their application and drawings submitted with the application dated 6/30/2020, and in accordance with the recommendations of the Conservation Commission in their Notice of Decision dated 7/10/2020. Mr. Hammer seconded. Motion carried unanimously.

4. Continuance of a Public Hearing for a Conditional Use Permit for applicant Stephen D. Eldred, 180 Portsmouth Ave., Map 15, Lot 5, to replace an existing boathouse with a new structure moved further away from the edge of the tidal wetland but still within the 100’ tidal buffer.

Attorney Tim Phoenix and Attorney Monica Kieser of Hoefle, Phoenix, Gormley & Roberts, P.A. presented on behalf of the applicant. Also present were Engineer Alex Ross of Ross Engineering, Certified Wetland Scientist Marc Jacobs, and the Applicant. Attorney Phoenix gave an overview of the project history and milestones. Mr. Eldred applied for a building permit in September 2016 to fix the existing boathouse. Town Building Inspector Don Graves issued a denial notice. Mr. Eldred subsequently decided to have the boathouse redesigned to evoke the characteristics of New Castle. Charles Hoyt was hired as the designer, who referenced designs from the Town of Newington to come up with a tasteful design for a new boathouse. In late 2017, Mr. Eldred filed an application to replace the boathouse with one that was significantly larger and included a request for an accessory dwelling unit. The Zoning Board of Adjustment did not rule on the case, and Attorney Phoenix’s office was subsequently hired in July 2018. Attorney Phoenix went before the Zoning Board with revised plans indicating a decreased proposed footprint and volume. The ZBA granted the variance from Article VII, §7.3.1 in March 2019. The Historic District Commission approved the revised architectural plans in August 2019. The NH Department of Environmental Services granted Mr. Eldred a Wetland Permit on February 25, 2020. The Conservation Commission gave a negative recommendation for the application by a vote of five to two at the March 2020 meeting. Lastly, after providing the requested utility connection specifications, the Water and Sewer Commission approved the application in March 2020.

Changes in the project over the past four years include a smaller building size with less volume and further away from the street and water, removal of the proposed cupola, decreased impervious surface area, a withdrawal of the accessory dwelling unit request and commitment that the structure never be used as an ADU.

Attorney Phoenix stated that other than putting in a new post and chain in the curb cut, Mr. Eldred has not altered the property. Attorney Phoenix claimed that the curb cut has existed for a very long time. Further, Mr. Ross is working with the NH Department of Transportation on the interface of the driveway into the street.

The Applicant would like to create an engineered permeable paver surface. A robust planting plan has been developed with Tom Berger, with the plan being to remove a large portion of grass lawn and replace with landscaping and salt water resistant plants. The proposed changes will improve the area around the building and water and will protect the environment, according to Attorney Phoenix.

Mr. Ross presented images of the existing boathouse to showcase the poor condition of the concrete pier supports. He noted that pieces of the current wooden ramp are floating away. Any significant improvement to the boathouse would exceed half of its value. After meeting with Don Graves, it was determined that the building would need to be lifted from an elevation of approximately 9.5 feet to 11 feet in order to meet all FEMA requirements. Mr. Ross has met with Eben Lewis of the NHDES several times for site visits, and Mr. Lewis has approved the current plans. Mr. Ross also presented renderings of what the boathouse will look like with views coming into town and coming down the hill exiting town. He felt that the proposal would result in a much-improved streetscape and would have a lasting positive impact on the surroundings.

Mr. Ross went through the existing and proposed site plans, noting that much of the land is in a flood zone. Attorney Phoenix urged the Board to consider the context of the boathouse location, stating that it differs from concerns over locations where there are inland wetlands that recharge the water supply. In this case, there is a river alongside the property that sees frequent boat traffic, in addition to pollution from vehicles crossing the bridges. The use of the boathouse would be relatively infrequent. There is a forced main to the sewer nearby, and the tank would be buried, sealed and anchored. Mr. Ross added that the sewer line is very close to the boathouse and would be a fairly easy connection.

Mr. Stewart inquired about the boat storage area. Mr. Ross explained that it would consist of piers to allow water to flow in and out. In the back would be an enclosed area where kayaks could be stored.

Attorney Phoenix commented about the Conservation Commission meetings, acknowledging that the Commission did not give a positive recommendation. However, he felt that the Commission addressed requirements under the Ordinance without recognizing what the Board reviews in terms of relief from the Zoning Board and DES, both of which the Applicant had already received. The Commission members' position was that the Applicant does not have permission to put the building in the proposed location since it is within the 100 foot buffer, which Attorney Phoenix argued is beside the point given the ZBA and DES approvals. He also acknowledged concern from the Commission over the use of a sewer and a toilet in the boathouse. He did not feel that this should be a serious concern given how the building will be improved and pushed further back from the river with native plantings and less impervious surface. Attorney Phoenix stated that the structure will be an accessory structure with an accessory use. The use of the structure under Town zoning requirements is a residential home, and the ordinance permits single family dwelling structures. The residential use is permitted and therefore the subordinate accessory use is

permitted, including installing electrical and water connections for sanitary facilities. The location of the building and the amenities inside it are permitted based on the Town Zoning Ordinance. Further, Attorney Phoenix noted that neither the Building Inspector nor the ZBA concluded that the day-to-day uses required some kind of additional relief.

Attorney Phoenix went through the conditional use permit requirements and explained how each of the requirements were met.

Marc Jacobs, Certified Wetland Scientist and Soil Scientist, presented. He reiterated that the project will be an improvement to the surrounding environment. Water runoff will be decreased and the plans would promote filtration and infiltration. He addressed the Conservation Commission's decision dated March 3, 2020, noting that the DES approval required periodic inspections of the plantings for a two-year period after the installation of the plants. Moving the boathouse to an alternate location would require the removal of trees, and the proposed footprint is smaller with a net decrease in impervious surface. There will be sediment control barriers that will be inspected weekly. The proposed boathouse will be further away from the tidal wetlands and the highest observable tide line. Further, the new structure would not have a ramp and the deck would also be further from the HOTL. Lastly, Mr. Jacobs noted that the Conservation Commission did not determine that the project will certainly create a hazard; they only suggested that it may do so, which is not definitive.

Chair Horgan opened discussion to the Board at 8:23 p.m. Mr. Hammer asked about the water and sewer connection. Attorney Phoenix clarified that there is no actual connection right now, but there are trenches that have been dug. There is an electrical connection that is not currently turned on. Mr. Ross added that previous plans for the house showed a utility connection to the building. Attorney Roman noted that subsections c) and e) of §9.2.5.2 require the Planning Board to consider the use of the building and that this is not solely under the ZBA's purview. Attorney Phoenix stated that the use is permitted under the Zoning Ordinance, though the Planning Board could still look at the effect of things such as adding a toilet.

Mr. Hammer pointed out that Google images show that a curb cut has not always existed as Attorney Phoenix previously stated. Mr. Eldred asked what defined a curb cut, and referenced past conversations he had with Mr. Finn, who was the previous owner. Mr. Eldred commented that he only put in a granite curbing because of the water running down the hill during storms. Attorney Phoenix added that the DOT has not raised any issues with the curb cut, and Mr. Ross noted that they have been working with Lucas Miller of the NHDOT and that Mr. Miller informed the Applicant that he does not need a driveway permit. Mr. Ross said that the only permit needed is an excavation permit to tie into the sewer line given that it is a state-owned road.

Mr. Jones noted that only the most recent plan shows a kitchen sink, which could indicate the intention to make the structure an ADU. Mr. Eldred responded that based on discussions with the ZBA, he agreed not to have it be an ADU or residence. Mr. Stewart asked if this will be specified in the deed. Attorney Roman added that because there is no Town Planner, she feels that it is not fair for the town to be responsible for ensuring that future owners will not use the structure as an ADU or residence. Attorney Phoenix and Mr. Eldred commented that they are amenable to putting this restriction in the deed.

Mr. Jones asked why the actual square footage of the boat storage area was not included in the calculations. Attorney Phoenix replied that what is underneath the building is not building volume because it has to be open with breakaway walls to allow water to come through. Mr. Ross clarified that the boat storage is not livable space, and described how there would be a stone wall and gravel floor. He noted that there cannot be solid concrete walls because of the flood zone. Mr. Stewart pointed out discrepancies with the wall material in the submitted architectural plans, which show concrete walls.

There was discussion about volume calculations and the first floor level. Mr. Hammer questioned the calculations used for building volume, and felt it was unclear whether the calculations included the boathouse storage space. He felt that the Board cannot approve the application unless they have an accurate calculation of the true proposed volume. Mr. Ross explained that the volume calculations are from the first floor up. Attorney Phoenix added that in his experience, volume calculations do not typically include unfinished basement space, which is comparable to the boathouse storage area. Attorney Roman stated that because this is a Conditional Use Permit, volume does have an impact on the Board's decision. She noted that the Board could add a condition of approval requiring engineer-certified volume calculations to be approved by the Building Inspector.

Chair Horgan asked about the landscape plan, pointing out that the DES approved plans revised 12/18/2019 but the plans given to the Planning Board have a revision date of 4/1/2020. She asked what has changed in the revision and if the DES needs to approve the changes. Mr. Ross responded that there were no significant changes and that they clarified the plantings with Mr. Lewis of the DES. Chair Horgan asked about the daily inspection of equipment as specified in the DES Wetland Permit requirements. Mr. Ross explained that the general contractor would be in charge of inspecting the equipment for leaks. Chair Horgan inquired about who is held accountable for the inspections. Mr. Ross stated that typically the general contractor is accountable, and that the DES usually wants the soil scientist to conduct inspections as well.

Chair Horgan had questions about the restoration plan approval, specifically regarding the monitoring reports. Mr. Ross explained that the Mr. Jacobs would be the qualified environmental consultant on site, and he would be responsible for doing monitoring reports within two years of the project. Mr. Jacobs stated that he would most likely be on site on a weekly basis, and would be present within 24 hours after a major storm event. He reports to Mr. Lewis at the DES. Chair Horgan requested copies of the monitoring reports, which Mr. Jacobs agreed to provide to the Planning Board.

Chair Horgan questioned why the Applicant needed a driveway for the boathouse structure. Mr. Eldred responded that the driveway was already there and all he is doing is converting it from impervious to pervious. Mr. Hammer felt that by adding the curb, Mr. Eldred in effect created a driveway. Mr. Stewart asked about covering an outlet pipe near the boathouse, and wondered whether this would create a situation where water runoff comes down and is not captured. Mr. Ross responded that the DES has given recommendations for the piping to help drainage. He added that as part of the wetland permit, they have to prepare a stormwater management plan. Mr. Stewart asked about the elevation change of the driveway, which Mr. Ross said would remain about the same.

There were extensive discussions about the proposed bathroom and related pump chamber/tank for sewage. Mr. Landry's primary concern was the pump chamber. He felt that it could potentially be located in a better spot, and had concerns about if the pump chamber were to fail. He pointed out that salt could get into the concrete and degrade the equipment over time. The pump chamber is currently located about 53 feet from the HOTL. Mr. Landry asked if there is a way to move the chamber so it is at least 75 feet away from the HOTL, or perhaps put it under the driveway. Mr. Ross stated that they had worked with the Water and Sewer Commission and a certified soil scientist to come up with the design and location, but they could move the tank a little.

Chair Horgan added that the tank has consistently been an issue with every Board that this application has come before. She felt that the tank will be impacted by rising tides. Mr. Stewart and Mr. Hammer agreed. Mr. Ross noted that the tank is designed for this. He commented that the water and sewer from the main house could be connected to the boathouse, but it would not make sense to pump from the boathouse up to the main house when there is a sewer line in the street right next to the structure.

Mr. Hammer voiced his issue with the bathroom, and wondered why it was necessary to have one in an accessory building. He also expressed concern about what future homeowners may do if they add a kitchen or stay overnight in the boathouse. Chair Horgan noted that if the bathroom poses a serious environmental danger, the Planning Board does not have to allow it. Attorney Roman added that the Town code enforcement would be monitoring the use of the boathouse, which Attorney Phoenix pointed out is in a very visible location. Attorney Phoenix reminded members that the toilet in the building would be used infrequently, and felt the likelihood of something happening would be quite low. Mr. Ross stated that the pump could be moved about 25 feet further from the HOTL, but it would remain at the same elevation. They could also use a backup pump and alarm system connected to the house. He pointed out that the pump size is relatively small. Attorney Roman asked if there was a mechanism to inspect the tank periodically. Mr. Ross stated that it is typical for a house septic system to be pumped every two years, during which time the septic would also be inspected.

Ms. Murray questioned the value and necessity in adding a sewage collection device in the fragile wetland, and felt that the system would overwhelm the boathouse. She was also skeptical about the driveway and the real purpose of the boathouse. Attorney Phoenix responded that the issue is balancing the use of a toilet with the possibility of some significant degradation in the buffer, and argued that this is a permitted use under the Town Zoning Ordinances. Further, the Applicant has the approval of the DES and a wetland scientist.

Mr. Stewart agreed with concerns over the code enforcement in Town, but was less opposed to the tank if it can be done in a way that makes sense environmentally, such as moving it back 25 feet and having a backup alarm. Ms. Sofio was also in favor of moving the tank, especially to get it outside the flood zone. Mr. Jones was on the fence about the issue given that the tank would be in an environmentally sensitive area. He asked if there was an electric meter at the boathouse. Mr. Eldred replied that there is a meter. Chair Horgan stated that moving the tank addresses her greatest concern, and while she prefers to not have a bathroom in the structure, she understands the homeowner's desires and the convenience. She proposed having a condition that the pump tank

never be any greater than 500 gallons in size. Attorney Phoenix responded that this could be accommodated as a condition.

Chair Horgan opened the hearing to the public at 9:53 p.m. She read a letter from Pat Wilson of 27 Colonial Lane. Ms. Wilson voiced concerns over the change in use of the structure, specifically by adding plumbing, which she felt changes the use from a boathouse to a residential space. Holly Fraumeni submitted a letter in support of the application, noting that she was an abutter and felt that the homeowners have the right to improve their property. Attorney Kieser read a letter from Michael Traister of 184 Portsmouth Avenue. He noted that he is the only abutter to the Eldreds and was fully in support of the proposed project and its improvements to the area's aesthetics.

Hearing no further public comments, Chair Horgan closed the public hearing at 9:57 p.m. and opened discussion up to the Board for any additional comments. Mr. Hammer asked whether building volume falls within the Planning Board's purview. Attorney Roman clarified that if a larger volume plays into any of the criteria for a CUP, then the Planning Board could weigh in. Otherwise, it is up to the Building Inspector. If the calculations are incorrect, then the ZBA would weigh in. Mr. Hammer expressed concern over the many instances in which people in Town abuse the ordinances and do not follow through with what the Boards approve. Attorney Phoenix pointed out that the ZBA was primarily concerned about how much bigger the structure would be from floor to roof, and stated that even if the calculations are off by 100 square feet, it would not have a negative environmental impact. He argued that they are entitled to the belief that the Applicants will abide by the law, and as long as they document what they are doing, it is not fair to assume that they will not follow the rules.

Chair Horgan asked each voting member to indicate if they agreed or disagreed that the boathouse proposal met each criterion under the Zoning Ordinance Section 9.2.5.2a-g. She reminded members that an overall negative vote on any one of the conditions should result in a negative vote on the CUP application. A majority of the Planning Board members agreed that the application met each of the criteria with the following exceptions: Ms. Murray and Mr. Hammer were unsure of condition a) being met, and felt that the structure could be rebuilt in a different portion of the lot so as to fall outside the 100 foot buffer; Ms. Murray felt that condition c) was met but with the amendment that the pump chamber be moved to at least 75 feet from the HOTL; Ms. Murray did not believe that condition e) was met.; and other members voted that this condition (e) was met with the amendments to the pump chamber system being moved 75 feet from the HOTL and the commitment to adhering to the restoration plan.

Chair Horgan stated that a bond would be used to ensure that the landscaping plan is executed as outlined in the submitted plans. The estimated cost of the landscaping plan is \$21,425. She explained the purpose and form of the bond, and set the amount at \$22,000. Mr. Eldred agreed that the planting plan would be done by June 1, 2022. The escrow is to be released by August 1, 2022, provided that an inspection has confirmed compliance.

There was significant debate about the proposed tank size. Mr. Hammer asked about the overall size of the chamber/tank. This revealed that the Planning Board members were under the impression that the tank size would be 500 gallons total, but Mr. Ross later clarified that the septic tank is 500 gallons and the pump is an additional 500 gallons. He stated that the smallest tank is a dual compartment, which would be 1,000 gallons total. He pointed out that the Water and Sewer Commission approved this system and recommended a minimum septic tank size of 500 gallons.

Mr. Ross added that neighboring houses have the same set up with a septic tank and pump, and felt that this is the optimal system based on discussions with Public Works and the Water and Sewer Commission.

Attorney Roman asked whether Board members would change their votes on any of the conditions based on the knowledge that the septic system is to be comprised of two 500 gallon tanks consisting of a septic tank and a pump chamber. Some members felt misled by what had been depicted and expressed frustration over the lack of clarity in the presentation, especially this late in the application process and this late at night. Members asked additional questions about the proposed system and how it would be installed. Mr. Ross stated that if the Board is completely against having a holding/septic tank, he could work to accommodate having just a pump chamber grinder system. However, he said this grinder system tends to require much more maintenance and fails frequently. Some members discussed whether they wanted more information about the grinder system and advice from the Water and Sewer Commission. Chair Horgan acknowledged the concessions that the Applicant has already given in terms of moving the system back and using an alarm system. She reminded the Board that the DES and Water and Sewer Commission signed off on the plans as submitted. Given that the system location has been amended to be at least 75 feet from the HOTL, some Board members felt more comfortable with the system.

Attorney Roman stated the conditions of approval for the conditional use permit for construction of an accessory boathouse. The conditions are as follows:

1. The dual compartment septic tank/pump chamber (hereinafter "Tank/Chamber") serving the boathouse structure shall not exceed 500 gallons for the septic tank and shall not exceed 500 gallons for the pump chamber for a maximum total of 1000 gallons.
2. The Tank/Chamber shall be moved 28-30 feet East up the Property to underneath the driveway area so that it is at or beyond 75 feet from the HOTL.
3. The Tank/Chamber shall have a battery back-up alarm located in the main house and shall contain a back flow preventer.
4. The Tank/Chamber shall be inspected for deterioration and malfunctioning every 2 years and shall be pumped, if necessary, every 2 years, with inspection and pumping documentation submitted to the Building Inspector every time.
5. The Tank/Chamber shall be constructed and installed as shown on the pump chamber plan dated 07/02/2020 and per the Water and Sewer Commission approval of the plans dated 03/12/2020.
6. Permanent and temporary/transient residential use of the structure is prohibited and the structure shall never be used as a residence or a dwelling. The applicant shall record a restrictive covenant, to be pre-approved by Town Counsel, prohibiting such uses.
7. This approval is for a boathouse; any future change in use from a boathouse must meet all then-current zoning ordinance requirements and other land use regulations, or receive the necessary relief therefrom.
8. Any disturbance to areas adjacent to the boathouse structure and associated components (driveway, deck, etc.) shall be restored as nearly as possible to its original grade and condition as per the zoning ordinance.
9. Applicant shall submit a performance security pursuant to the standard Planning Board performance security form, in the form of a surety, Letter of Credit or cash, approved

by the Town Counsel, in the amount of \$22,000 to ensure that all restoration and mitigation and plantings as shown on the applicant's Stormwater Management Plan, Landscape Plan and Erosion Control Plan are completed in accordance with the approved design plans and stated conditions. At the time the applicant submits the performance security, the applicant shall also execute and submit to the Planning Board a "Site Access Agreement." The performance security deposit and the Site Access Agreement must be submitted and approved by the Planning Board prior to the commencement of any work and prior to the issuance of any permit authorizing construction.

- i. In order for the security to be released, the applicant shall submit in writing to the Planning Board a request for the release of security along with evidence that all work has been completed in accordance with the approved plans and stated conditions. The Planning Board shall review the submitted materials and vote on the request to release the security. The Planning Board, or its designee, has authority to enter the property to conduct inspections to ensure the required work has been satisfactorily completed per the approved plans and stated conditions.
 - ii. If the Planning Board is not satisfied that all work is complete and complies with the approved plans, the security shall remain in place with the Town. The Planning Board will specify a time in which work shall be completed to cure the defects in the work, after which the applicant may resubmit a request for the release.
10. The applicant shall submit an As-Built plan to the Building Inspector that complies with the plans submitted to, and approved herein by, the Planning Board.
11. The applicant must receive all necessary required relief from the ZBA and the NHDOT.
12. Copies of any reports submitted to the DES with regard to the structure and the work performed in relation thereto shall be submitted to the Planning Board.
13. Incorporated herein by reference as part of this Planning Board CUP approval are all of the requirements and conditions of the Wetlands DES permit #2019-03256.
14. Applicant or his agents shall submit certified volume calculations stamped and sealed by a licensed engineer to the Building Inspector for confirmation by the Building Inspector.
15. Full compliance with the Stormwater Management Plan, the Landscape Plan, and the Erosion Control Plan as presented to the Planning Board by Ross Engineering on behalf of the applicant with last revision dates of 4/1/2020.
16. Full compliance with the representations by the applicant and his representatives made to the Planning Board at the July 15, 2020 hearing and meeting as reflected in the approved Planning Board minutes.
17. Prior to demolition of the existing boathouse, the existing floor height, roof ridge height, square footage and volume are verified in writing, stamped and sealed, by a licensed engineer and submitted to the Building Inspector.

Mr. Stewart motioned to approve the Conditional Use Permit application for construction of an accessory boathouse submitted by Stephen D. Eldred on property located at 180 Portsmouth Avenue, Tax Map 15, Lot 5, *subject to the conditions of approval enumerated above*. Ms. Sofio seconded. The motion passed by a vote of three in favor, one against, and one abstained. Mr.

Stewart, Ms. Sofio, and Chair Horgan voted in favor. Ms. Murray voted against, and Mr. Hammer abstained.

5. Old Business.

None.

6. New Business.

None.

7. Adjourn.

There being no further business, Mr. Stewart moved to adjourn the meeting. Chair Horgan seconded. The motion carried, unanimously, and the meeting adjourned at 12:10 a.m.

Respectfully Submitted,

Meghan Rumph
Recording Secretary