

NORTH BERWICK, MAINE 03906

MINUTES OF PLANNING BOARD AUGUST 28, 2014

Present: Chairman Barry Chase, Jon Morse, Rick Reynolds, Lawrence Huntley, CEO

Absent: Geoffrey Aleva, Mark Cahoon, Anne Whitten

Also Present: Lee Jay Feldman, Paul Danforth, Tom Morissette, Diane Morissette, Jon Umenhofer, Gary Umenhofer

1. Call to Order:

Chairman Barry Chase called the meeting to order at 6:30 pm.

2. Review of Previous Minutes:

Chairman Chase stated that they would have to skip the review of minutes because there are not enough members to sign off on them. Only Rick Reynolds and Jon Morse were at the last meeting and this meeting.

3. Current Business:

Chairman Chase stated that the first item on the Agenda was for applicant Nancy Graham. She is proposing a 4 lot Minor Subdivision on Sunset Ave. (Map 21, Lot 10). Paul Danforth stepped forward to represent Nancy Graham. Larry Huntley stated that they were now proposing a 5 lot subdivision so this makes it a major subdivision.

Paul Danforth stated that they are looking to have 5 lots fronting on Sunset Avenue. Each lot has a minimum of 20,000 square feet with 105 feet of frontage. He stated that Lot 5 is significantly larger because they have run out of frontages and do not want to make a huge road to get in there. He stated that they are looking to have the water come in from Maple Street because there is a bigger line. He stated that Lot 1 already has service to it from Sunset which they would probably keep, but the other lots would get their service from Maple Street. Mr. Danforth stated that Mrs. Graham has a request in front of the sanitary district to purchase the rights for 5 services to those lots. They will be reviewing this at their next meeting in September.

Mr. Danforth went on to say that the yellow lines that are along Sunset on the sketch plan are the actual property lines. He stated that Dwayne Morin had told him that it was encumbered upon the subdivision to provide some adequate street width where none exists. The right of way is

only a 20 foot right of way. It is essentially the pavement edge to pavement edge on Sunset. Mr. Danforth stated that the green line on the sketch is where they are proposing an easement line for the right of way. They are proposing 10 feet along Sunset.

Lee Jay Feldman asked Mr. Danforth if he is planning on having a surveyor officially lay it all out and Mr. Danforth said he would. Mr. Feldman and Mr. Huntley went through the Ordinance to find information regarding the roads. Larry read from the section titled Notes to Table 4.3 note p. It reads: "Lots located on opposite sides of a public or private road or drive shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after 22 September 1971." He asked Mr. Danforth if he was trying to add the end of the road and the side of the road to get 100 feet and Mr. Danforth answered that he was. Mr. Feldman asked if he was going to create the 50 foot right of way as a hammerhead to be dedicated to the Town as a turnaround. Mr. Danforth stated that he would be but he is looking at getting frontage along the end of the road as well as the side of the road for frontage for Lot 5. Larry asked Mr. Danforth if it was possible to make it 100 feet in there. Mr. Danforth stated that it is but he does not want to make 100 feet of road for a single lot.

Chairman Chase asked Larry Huntley where it stated how you measure the road frontage. Larry stated that it was in the definitions. Lee Jay Feldman stated that it was the definition on Page 3-9 for Front Lot Line or Frontage. It reads: "the linear distance of the line separating the lot from any publicly or privately maintained road or drive which is a commonly traveled thoroughfare open to the public, but not including private driveways." Chairman Chase stated that if that is the end of the road, he could count it. Larry asked Mr. Danforth about it being a turnaround. Mr. Danforth stated that there was currently no turnaround and he didn't know what they currently do there for snow removal. He was going to speak to the Road Chief, Mike and ask him what they do now. Mr. Danforth stated that by providing this turnaround, it would allow the plows to make that turn to push the snow in there. He said that it would serve a dual purpose. He would get the frontage and supply the turnaround. Lee Jay Feldman stated that if he were to do this, it would need to be dedicated to the Town. Mr. Danforth stated that they would do this. Mr. Feldman stated that he needs to take a closer look at the Ordinance to see if this would be allowed. Mr. Feldman stated that the Waiver Provisions under Subdivisions states: "Special Circumstances: Where the Board makes written Findings of Fact, there are special circumstances if a particular lot is proposed to be subdivided. It may waive portions of the submission requirements or the standards, unless otherwise indicated, to permit a more practical and economical development, provided that the public health, safety, welfare are protected and provided the waivers do not have the effective nullifying intent of the official map." Mr. Feldman stated that they can request that waiver to allow that to occur provided the Board concurs with that. It can be written into the Findings of Fact. Chairman Chase asked the Board members what they thought about the idea. Rick Reynolds stated that he didn't have a problem with it. He stated that it will be an advantage to have the turnaround area. This will help to avoid having a dead end street.

Mr. Danforth asked if the area of the lots should include the utility easements and Larry stated that this was acceptable. Lee Jay Feldman asked Mr. Danforth if he had received permission from the sanitary district to run it from the back side of the lots. Mr. Danforth stated that he had told them what he was planning and they were fine with it. Mr. Huntley stated that he will need to provide a statement from the sanitary, water and fire departments for the file.

Mr. Danforth stated that he will have a preliminary application at the next meeting. He will also have a better preliminary plan and some requests for waivers. He will not be ready for a public hearing at the next meeting. Lee Jay Feldman stated that the Board was going to review for completeness. If it is complete with the submission requirements than they will take action on the preliminary plan. The public hearing would take place before taking action on the final plan. Mr. Feldman stated that this gives him some time to review everything and write up a memo to the Planning Board with his recommendations.

Chairman Chase stated that the next item on the Agenda is for the applicants Jon & Gary Umenhofer. They are proposing to house five chickens in a closed coop at 261 Wells Street (Map 2, Lot 54).

Gary Umenhofer stated that they are currently looking to purchase the house at this address but they want to make sure that they will be able to house a small number of chickens on the property before they buy it.

Chairman Chase asked Larry for his comments. Larry stated that it is allowed in the zone that the house is located in. He stated that his main concern is roosters. He stated that the applicants did state on their application that they will not have roosters. Larry said that if the Board does accept this application, he would like them to put on the permit that no roosters are allowed. Mr. Umenhofer asked if that would be a requirement. Chairman Chase stated that if they approve the conditional use permit, they would state that as a condition so the applicants would have to follow it. Chairman Chase asked Mr. Umenhofer if they were thinking of getting roosters in the future. Mr. Umenhofer stated that he was just curious as to why there would be a restriction and if something had happened to require this condition. Larry stated that roosters are required to have chickens but they are not required to have eggs. He stated that they do have a lot of places around town, mostly in the Farm and Forest zone that have chickens. This house is in a Residential II zone. This zone does not restrict chickens but it is restrictive because of the size of the lot. The size of the lot does not allow the noise to dissipate before it gets to a neighbor. It is because of the nuisance ordinance. It states that if a rooster crows more than 5 times in an hour, it is a nuisance. They do crow more than that at times because anytime there is some kind of disturbance around, they will crow to warn the hens of possible danger. Mr. Umenhofer asked if the same thing would apply to a dog that would bark more than 5 times in an hour and Mr. Huntley said that it would.

Rick Reynolds asked if this was going to be for commercial uses and Mr. Umenhofer stated that they were not. They were just small Bantam hens that they were going to keep as pets.

Chairman Chase opened the meeting up for public comment at 7:02 pm.

Tom Morissette stated that he lives right on the property line and his main concern is about them keeping it clean and about having roosters crowing all the time. He stated that if it is kept clean so there is no aroma and there is no rooster for the noise, then he does not really have a problem with it.

Chairman Chase closed the meeting for public comment at 7:06 pm.

Jon Morse asked if the chickens are loud. Mr. Umenhofer stated that they do not crow and only make a little chirping noise. Mr. Morse asked if they were going to rake up the pen every day. Mr. Umenhofer stated that they have a fairly large running area. He stated that with chickens, it depends on how big the running area is and the number of chickens as to the smell and how fast the waste can biodegrade into the ground.

Rick Reynolds states that he has no issues with it as long as we state to keep it clean and have no roosters. He also stated that they should change it to hens instead of chickens on the application.

Mr. Morissette asked what the setback was from the property line for the coop. Larry Huntley stated that it was 10 feet. Jon Morse asked if it was 10 feet for the fence or for the coop. Larry stated that it was for the coop. Chairman Chase stated that the fence could be right up to the property line. Chairman Chase asked the applicant about the layout. He was wondering if they could keep the enclosure away from the property line. Mr. Umenhofer said that they probably could but he did not own the property yet, so he hasn't really looked close enough at it yet. He stated that there is already a playset in the backyard. Mr. Morissette stated that this was right on the property line. He stated that he will need to hire a surveyor. When he went to look for the pins for the ladies that bought the property next door to them, they couldn't find the pins. He is supposed to have 175 feet of frontage and he doesn't have a reference for that. He will need to hire a surveyor to figure out the property lines.

Rick Reynolds motioned to grant the conditional use permit to Jon & Gary Umenhofer to house five hens in a closed coop at 261 Wells Street, (Map 2, Lot 54) with the following conditions:

1. No roosters are allowed.
2. Provide clean housing for the hens.

Jon Morse seconded the motion. VOTE: 3-0

4. Other Business:

Larry stated that there is nothing new to report. He stated that Hannaford has to commence construction before 10/13/14 and they are planning to do so. He did state that they are planning on changing the building. Their corporate office wants to change the building design. Larry has told them that they will need to adhere to the new Ordinance.

5. Adjournment:

Rick Reynolds motioned to adjourn the meeting at 7:20 pm. Jon Morse seconded the motion.
VOTE: 3-0

Lawrence Huntley, CEO
Planning Coordinator

Respectively, submitted,
Susan Niehoff, Stenographer

Chairman Barry Chase

Geoffrey Aleva

Rick Reynolds

Mark Cahoon

Jon Morse

Anne Whitten