

NORTH BERWICK, MAINE 03906

MINUTES OF PLANNING BOARD FEBRUARY 14, 2013

Present: Lawrence Huntley, CEO, Chairman Barry Chase, Shaun DeWolf, Geoffrey Aleva, Rick Reynolds, Anne Whitten, Mark Cahoon

Absent: Jon Morse

Also Present: Alfred Bennett, Stephanie Bennett, Donald Royal, Sonja Royal, Rick Stambaugh, Charles Barto, Shirley Barto, Lorinda Hilton, Dale Hilton, Philip H. Rowe, Roland Jacques, Janet Hooke, Laurienne Missud Martin, Carol Stambaugh, Alice Purington, Nancy Guptill, Evan MacKenzie, Victoria MacKenzie, Martha Gallagher, Jones Gallagher, Sally McLaren, Patty Boston, Randy Boston, Karen Mathis, Brian Rayback, Tyler Sterling, Melinda Paker, John St. Hilaire, Colleen H St. Hilaire, Ben Gumm, Edwin Guptill, Alan G. Gray, Neil Rapoza, James Benedict

1. Call to Order:

Chairman Barry Chase opened the Planning Board meeting at 6:34 pm.

2. Current Business:

Chairman Barry Chase stated that this was a continuation of the Planning Board Public Hearing from January 24, 2013.

He introduced Anne Whitten, who is an alternate Board member, stating that she will be presenting what we will be talking about tonight.

She read into the record all the Planning Board Zoning Changes that were approved at the February 7, 2013 meeting. This included:

Map Zoning Changes

Language Changes to following Articles:

1. 2.1 Zoning Districts
2. Article 4.1.12 Limited Control District
3. Article 4.3.k-Notes to Table 4.3
4. Article 5.1.13.a - Off Street Parking and Loading
5. Article 5.2.9 - Residential Uses in Commercial Zones
6. Article 4.3.g - Notes to Table 4.3
7. Article 5.2.18 - Adult Businesses
8. Article 5.2.1 - Medical Marijuana

9. 5.2.16 - Affordable Housing Standards (Village C Overlay District and Commercial District)
10. Large Scale Box Stores - Land Use Policy #1 Action 2
11. Article 6.9.4 - Application Procedure
12. Article 6.9.7 - Conditions Attached to Conditional Use
13. Changes in the Land Uses tables

Chairman Chase then opened the meeting to the public at 6:55 p.m. He asked that since this was a continuation of the previous hearing to please just bring anything new for Board to hear. If it was something already brought up in last hearing, than it has already been put into the record.

Charles Barto would like to ask each Board member what under General, 1.2.d Purpose of the Code in the Code Book means to each of them? Chairman Chase stated that they were not going to answer questions. The Board is just listening to any comments or suggestions that the public wants to make at this time.

Anne Whitten stated that she thought it just meant that the Town of North Berwick should be a nice place to live.

Mr. Barto feels that these changes would not let the town stay as a rural setting. He stated that by making these changes to allow a store like Hannaford to come in, would effect the rural setting of the town.

Rick Stambaugh stated that at the last Public Hearing, he made an unintentional error that he would like to correct. He stated that Mr. Huntley, the CEO stated that every new home with 2 Bedroom costs us money because each student cost us \$6500 a year. Knowing that this figure was not exactly accurate, he started going through his books to find total number of North Berwick students. Unfortunately, he picked up the wrong number. He picked up the number for the Elementary School and he didn't realize that the Middle School and High School were on the next page. So he had used 320 but the actual number should have been 610. He stated that even with the double number of students, his point was still valid. We have over 3 households for every student with an average total tax assessment of \$7500 per year. We don't lose money with homes with students.

He also wanted to point out some housekeeping errors in the proposal. On the first page, Map Zoning 2 wording should have the word District after Commercial. On Map Zoning 3 the Village Center District should be Village Center Overlay District.

On proposed note for Table 4.3 it states Village, Commercial, Commercial II and Residential I should be Village A, Village B, Commercial, Commercial II and Residential I.

John St. Hilaire asked who, on the Planning Board, changed the buffer from 100 ft to 20

ft. He wonders how this benefit's the people that still wish to live in the Commercial District.

Lawrence Huntley, CEO, stated that there was a proposal made that when you change a Residential District to a Commercial District and you keep 100 foot setbacks within Residential use to a Commercial District there is no setbacks. So if you change the zone to Commercial, you need to provide for areas that can be Commercial so they reduced that within the District only. He didn't know who specifically had proposed it.

Chairman Chase stated that the whole Board had voted to approve it.

Nancy Guptill, President of the Historical Society wanted to know if the land that abuts the Historical Society on Old County Road going down the wooded land that is next to Unity Park could be a 100 ft setback. She states that a Park should be a quiet place for people to go and enjoy and they would like it to stay a country setting. She asked how and who decides this and how do we make sure that if Hannaford comes in, they will not change anything initially agreed upon regarding buffers, in future years.

Lawrence Huntley stated this is in a District that the 100 ft setback already applies.

Laurienne Missud Martin wanted to know what happens with all the info that the townspeople are presenting to the Board.

Anne Whitten stated that the Board does hear everyone out and takes it all into account when making decisions. Laurienne stated that she does not feel that the whole Board does this and sometimes feels like the Board disrespects the people who are expressing their thoughts and feelings.

Mark Cahoon stated that many comments have been made about the Board. He stated that the Board members are giving up their time to do this. He states that respect has to be given in order to get back.

Chairman Chase stated that we need to get back on track with the meeting.

Laurienne stated that she is one of the ones that will be affected with the 20 ft setback.

Shaun DeWolf apologized for snapping at the last Public Hearing. He states that he is here working for the town and feels that we all need to work together for the best interest of the town.

Anne Whitten would like to go through the land use tables. She read through the changes that were approved at the last Board meeting.

Rick Stambaugh feels that the proposed changes are seriously flawed. He asked several questions of the Board.

Q. Have the minutes of the 1/24/13 meeting been approved?

A. Yes

Q. Were they approved before the 2/7/13 meeting?

A. They were approved at the 2/7/13 meeting.

Q. Can a Planning Board member explain to me how, at the last meeting, you approved all of the land use table uses before you approved the Map that defines where those uses would go?

A. Anne Whitten asked him to clarify what he meant. Mr. Stambaugh stated that all the land use tables were approved prior to the map which shows where changes would go. He states that this is backwards. He states that where the changes are going need to be defined first. Anne stated that the Board had already all looked at the map.

Q. Can one of the Board members please explain how proposed ordinance changes affect On street parking on Routes 4 and 9 for the new Commercial uses?

A. Chairman Chase stated that the only thing that is changing in the 5.1.13.a is Limited Commercial districts to Commercial II districts. He stated that there were no changes to the Off street parking. Mr. Stambaugh states that by changing the Limited Commercial districts to the new Commercial II, you have greatly expanded the areas on Route 4 and Route 9 to have on street parking. Mark Cahoon stated that a DOT approval would be needed to get on street parking. Mr. Stambaugh stated that no DOT approval would be needed if State Farm Insurance buys someone's house in the new extended area. Shaun DeWolf stated that it is his understanding that Routes 4 and 9 are state run and we would have no jurisdiction over that.

Q. Can you explain how the proposed changes expand our tax base? Specifically, is there any quantitative data to show that changing any existing Residential use into a Commercial use will result in a tax revenue increase? For example, If a home is sold to a State Farm Insurance, will there be any change in our tax revenue?

A. Anne Whitten stated that Commercial businesses are taxed higher than Residential. Mr. Stambaugh stated that this was wrong. He went to Tax Assessor to ask the questions. The Tax Assessor told him that there would be no change in tax revenue by doing this. He stated that it is not about the use, but it is about the market value and until the market value changes with the adoption of a critical mass of business changes, than that is when it changes. Anne stated that she would like to talk to the Assessor herself.

Q. At the last meeting, did the Planning Board accept Drive-thrus?

A. Anne Whitten answered No. It stayed the same. Mr. Stambaugh asked what the vote was that he heard. Anne stated that she wanted Pharmacy added in and there was a vote with a 3-4 vote so it didn't pass. It was brought up again but was never seconded so never went to vote.

Q. Can a Board member please explain why there is no proposed definition for the new Commercial II District in Section 4 like there is for all the other Districts?

A. Anne Whitten stated that it is underneath the definition of the Commercial District. She states that the land use tables are different. Geoffrey Aleva agreed stating that the differences are in the land use tables and dimensional requirements.

Q. Will a Planning Board member please explain if the proposed changes will allow a stand-alone, 24-hour ATM like the Credit Union one on Route 4 in South Berwick be allowed on Route 9?

A. Chairman Chase states that it would be taken up on individual basis if someone were to apply for one. At that time, the Board could allow for any Conditional uses to be set forth.

Q. At the last meeting, Mr. Huntley explained that 100 ft setbacks should be changed because a business would have to buy 3 lots to meet the 100 ft setback requirements. Why is that a greater concern to you than the quality of life of the abutter?

A. Chairman Chase states that it will all come up on a case by case basis where we are given the opportunity to use the property as commercial property rather than limiting it to not being able to use the piece of property for commercial use.

Q. If citizens petition for this change and it is defeated at the election, we would have to wait 2 years to re-propose it. Will the Planning Board wait 2 years to re-propose this when it loses the election?

A. Most of the Board members stated that they couldn't say one way or another because they are not sure who will still be on Board and they can't speak for any future members.

Q. Section 4.1.12 states it limits Commercial development to avoid potential hazardous conditions on Route 4. Can you identify what has changed that would now allow us to create those unsafe traffic conditions for an even longer length of Route 4?

A. Chairman Chase stated that we are striking the Limited Commercial District out and that whatever it says in the Commercial District would be what is followed. Mr. Stambaugh voiced his concerns over the hazardous conditions and feels that it takes away from the Board to impose these conditions. Geoffrey Aleva disagreed stating that any project that comes through the Board for Conditional Uses allows the Board to turn it down. If Board feels that it would be a traffic impact, they can recommend that DOT review it and they can make their conditions of approval to make sure that it is not a traffic safety issue.

Q. Can you explain how Affordable Housing along Somersworth Road is affected by the proposed change? Is there a conflict now between the Land Use Table and the Village C Overlay?

A. Lawrence Huntley stated that if you look on 4-11B of the Land Use Table under Residential, there is a statement #4 which states that: "Nothing herein prevents affordable housing from being built outside the Village C Overlay District that are not subject to the requirements of Article 5.2.16." Mr. Stambaugh stated that when he looks at Residential Affordable 1 & 2 family dwellings it says NO. Mr. Huntley then stated that it says to look at Article 4.

Q. Are you going to use any of these comments that I have just given you to amend your proposal?

A. Chairman Chase stated that they would have discussion on that after they closed the Public Hearing.

Shirley Barto and Lorinda Hilton both voiced their opinion stating that the proposal should be tabled.

Jones Gallagher asked if any suggestions or comments from previous meetings and hearings been implemented into this Plan.

Lawrence Huntley stated that there have been many changes to original Plan because of the input from the public. Mr. Gallagher wanted to know if anything said this evening was going to be brought up. Anne Whitten stated that it would be discussed after public comment. Lawrence Huntley stated that he has made several notes from some of the issues that Rick Stambaugh brought up and he will bring them forward.

Mr. Gallagher also wants to make sure that the Board take into consideration that house values may be affected.

Colleen St. Hilaire asked about what the spur road is that was mentioned when Anne Whitten was reading at beginning of hearing.

Chairman Chase stated that it is the spur line off of a railroad. He states that in Article 4.3.g. where it states that: "setbacks may be reduced to a point that abuts the right-of-way of a railroad (including spur lines)."

Randy Boston asked for the Board to identify wetlands.

Lawrence Huntley stated that wetlands are identified on our Resource Protection Map.

Mr. Boston is wondering how someone can get a permit to build on that land by Wick's because when it rains a lot, it does not drain well and stays flooded for some time.

Chairman Chase stated that they would have to go through the permitting process. They would have to have the wetlands delineated.

Karen Mathis wants to know why we can't fill the existing Commercial sites that are available.

Shaun DeWolf said that he spoke with Dwayne after the last Public Hearing and his simple answer was "Landlords". He stated that the people who own the buildings are either asking too much or not willing to put the work into the space.

Karen Mathis also stated that she is willing to help in any way to work on making the downtown area more attractive to people and business.

Chairman Chase stated that the Planning Board has asked the Selectman to put together an Economic Committee and also a Conversation Committee, but the Selectman said that there were no volunteers.

Rick Stambaugh would like clarification on why they took out Madison Street in Commercial which was supposedly because it was a dead end street but then added Prospect Street and Lynn Street which are also dead end streets?

Chairman Chase stated that the bulk of the map changes were from Dwayne Morin's proposal and he wishes that he would be here to explain. He did state that Madison Street was removed from the first proposal because they couldn't understand why that small area was Commercial in the first place.

Evan MacKenzie stated that if the Board cannot answer specific questions about their proposed maps or the one that was proposed by Dwayne Morin, why are we using this map? It needs more consideration.

Chairman Chase stated that there is no question that the maps have changed significantly since they first started planning.

Mr. MacKenzie also wants to know why none of the considerations that were brought up at the first Public Hearing were not even discussed at the 2/7 Planning Board meeting. Mark Cahoon thinks that it is being taken into consideration quite a bit. He stated that he was the one that originally wanted the Commercial zone to go all the way up Route 4 to the railroad tracks including the warehouse. He wanted to go all the way up to the power lines on Route 4. Also wanted to go up the road towards Sanford or at least up to the school. Many changes have been made since then from input from various people.

Ann Whitten states that yes there was no discussion at the last meeting but she has been thinking about it a lot over the past few weeks.

Chairman Barry Chase closed the meeting from public comment at 9:15.

Anne Whitten asked if we could put something in the Ordinance that says: "If there is a new commercial building that goes up next to a Residential then the setback should be more than 20 feet."

Lawrence Huntley stated that it is because you are not going to provide for Commercial Uses in the Commercial District.

Chairman Barry Chase said that the Planning Board does have the authority to increase the setback.

Anne Whitten wants to add to Commercial District: To provide for businesses which are likely to generate small volumes of traffic and relatively few vehicle turning movements

conditions.

Lawrence Huntley stated that that would contradict what the Commercial zone is allowing. He also states that is in the Conditional use review.

Lawrence Huntley said that in the Land Use Tables, in the column Village A,B,C, the C needs to be removed because there is no Village C District. It is the Village C Overlay District. This needs to be changed on pages 4-11A to 4-11E.

Rick Reynolds motioned on the Land Use Tables to change the Column Village A,B,C on pages 4-11A through 4-11E so that the C be stricken.

Mark Cahoon seconded the motion.

Vote: 5-0

Lawrence Huntley requested that on 4-11A in Affordable 1 & 2 family dwellings under Column Commercial II be changed from NO to CU.

Rick Reynolds motioned that on the Land Use tables on page 4-11A under column Commercial II, under Residential section, under sub-section Affordable 1 & 2 family dwellings that it be changed from NO to CU.

Shaun DeWolf seconded the motion.

Vote: 5-0

Lawrence Huntley requested that on Map Zoning Changes, Paragraph 2 should say Commercial District and Paragraph 3 should say Village Center Overlay.

Rick Reynolds motioned to change on Map Zoning Changes that were approved on February 7, 2013, in Paragraph 2, the sentence should read: Amend Zoning Map by extending the Commercial District to include certain land in the areas of Canal Street, Market Street and Lower Main Street and remove certain land in the areas of Madison Street and Madison Court.

Also in Paragraph 3 it should read: Amend Zoning Map by extending the Village Center Overlay District to include certain land in the areas of Church Avenue, Burma Road, Lynn Street, Portland Street, Prospect Street and Wells Street. The areas to be included in the Village Center Overlay District are currently in the Village A District.

Geoffrey Aleve seconded the motion.

Vote: 5-0

Rick Reynolds motioned that Article 4.3.k-Notes to Table 4.3 should read: Government subsidized elderly housing, designed and built specifically for the elderly, shall be permitted at the ratio of 8,000 square feet of land per 1 bedroom unit and 16,000 square feet of land per 2 bedroom unit in the following districts: Village A&B, Commercial, Commercial II and Residential I.

Mark Cahoon seconded the motion.

Vote: 5-0

Shaun DeWolf wanted to discuss Article 4.3.g.-Notes to Table 4.3 further to change to 30 feet for setback.

Geoffrey Aleva suggested we add the following sentence after this sentence: All side and rear yards abutting another commercial or industrial site shall have a minimum depth of 20 feet from side and rear lot lines. New Commercial developments shall have a minimum depth of 30 feet from side and rear lot lines from an abutting Residential Use. After further discussion, it was decided to make no change.

Geoffrey Aleva motioned to accept the Planning Board Zoning changes with the amendments made here tonight and include the Proposed Zoning Changes Map and Table and the amended Use Tables. This will be sent to the Board of Selectman for their consideration.

Mark Cahoon seconded the motion.

Vote: 4-1

3. Review Previous Minutes:

Rick Reynolds stated that on Page 4 where it states: "Rick Reynolds motioned to accept the proposed change to Article 5.2.9 which is eliminating: to occupy ..."

Rick Reynolds motioned to accept the minutes from the 2/7/13 Planning Board meeting as amended.

Shaun DeWolf seconded the motion

Vote: 5-0

4. Other Business:

5. Adjournment:

Mark Cahoon motioned to adjourn the meeting at 10:15 p.m.

Rick Reynolds seconded the motion.

Vote: 5-0

Lawrence Huntley, CEO
Planning Coordinator

Respectively Submitted,
Susan Niehoff, Stenographer

Chairman Barry Chase

Shaun DeWolf

Rick Reynolds

Mark Cahoon

Geoffrey Aleva

Jon Morse

Anne Whitten