

NORTH BERWICK, MAINE 03906

MINUTES OF PLANNING BOARD JUNE 27, 2013

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

Absent: Jon Morse

Also Present: Lee Jay Feldman, Shirley Barto, Charles Barto, Rick Stambaugh, Tyler Sterling, Bill McKenney, Nancy Gupill, Laurienne Missud Martin

1. Call to Order:

Chairman Barry Chase opened the Planning Board meeting at 6:32 pm.

2. Review Previous Minutes:

Rick Reynolds stated that on Page 2 in 3rd paragraph, the sentence should read, "The continuance is so that an engineering report or written report regarding the drainage be created."

Anne Whitten stated that on Page 1 in first paragraph under Current Business, where it states "(Three 30x100 Buildings)" it should be "(Three 30' x 100' Buildings)". This also needs to be done on Page 2 in the last paragraph where it has "(Three 30'x100')".

Rick Reynolds motioned to accept the amended minutes from June 13, 2013.

Mark Cahoon seconded the motion.

VOTE: 5-0 1 Abstain

3. Current Business:

Chairman Chase stated that the applicant, Hannaford Supermarkets, is proposing a Supermarket and Pharmacy at 33 Somersworth Rd. (map 17, lot 7). Bill McKenney stepped forward and introduced himself and Tyler Sterling as the representatives from Hannaford. Mr. McKenney stated that Hannaford is requesting that the Board accept their application as complete at this time. He said that they submitted their application on June 13 and Lee Jay Feldman promptly reviewed the application for completeness. Mr. Feldman issued a memo to the Planning Board and to Hannaford stating it was still not complete and included a list of what needed to be done to make it a complete application. Mr. McKenney stated that they went through Mr. Feldman's memo and he believes that they now have a complete application. He said that the only thing that they did not have corrected is the full size of the plan. They are requesting that the Board grant them a waiver and accept the scale of 1": 60'.

Chairman Chase asked if they had some updated designs for the Board to review. Mr. McKenney stated that they did have 2 full size sets of the site plan, which he displayed for everyone to see. Mr. McKenney stated that he did provide a letter dated June 26, 2013 that covers the issues of completeness that Lee Jay Feldman brought up in his memo. Mr. Feldman stated that he did see the plan that Hannaford has presented this evening and he said that the information that he suggested in his memo has been added. Mr. Feldman stated that he has looked at Section 6.9.4, which is our Application Procedures. This is the only information that he has looked at to determine whether or not the application, by our Ordinance, can be deemed completed or not. By his perspective, he does feel that all of that information is there. He also stated that there might be other information that the Board will want to have. He said that if the Board deems the application complete tonight, then the Board can request that additional information be submitted so that once the public hearing date is set, that is when the real deliberation and discussion can get going on the merits of the application. He said that the first step that should be done this evening is making sure that the information from the Ordinance has been submitted. He stated that if the Board deems that the application is complete, the next step would be to set up a site walk and then have a public hearing.

Chairman Chase asked about the signs and any updated plans for those. Mr. McKenney stated that when they first presented a plan to the Board, Hannaford wanted 500 square feet of signage with 2 wall signs on the building in the front and one on the side right side facing Route 9 and the pylon signs. After the last Board meeting, they removed the side sign bringing the square footage down to 350 square feet. Lawrence Huntley has reminded them that the Ordinance only allows for a maximum of 180 square feet. They are pleased to tell us that the 180 square feet does work for them. They reduced the size of their front sign to about 102 square feet, the two pylon signs at each end of the driveways are about 39.01 square feet and they removed the sign on the side of the building. Mr. McKenney also stated that they have also proposed the height of the signs to be 15 feet, which also follows the Town Ordinance.

Rick Reynolds asked about the sewage permit. It states in the packet that Hannaford has verbal approval from the Sewer District. Mr. McKenney explained that the credits for sewer get granted for a three-month time frame. He stated that it was granted to Hannaford, but some time has gone by so they will need to continue to request the credits from the Sewer District. Mr. McKenney stated that once they have more surety about the project, they would formerly request credits. He states that there are plenty of credits available so it won't be a problem.

Anne Whitten inquired about the sign totals. She stated that the Ordinance says: "No sign shall exceed 50 square feet in an area including all informational signs. No commercial, industrial, institutional, public or semi-public land may display more than 60 square feet of signs in total." Lawrence Huntley stated that it is per use. Anne Whitten asked what Hannaford's uses were. Mr. Huntley replied that they had a pharmacy,

grocery store and bottle redemption center so that allows for 180 square feet. Anne stated that Hannaford owned them all. She stated that Dunkin Donuts has Subway and the medical office. Larry stated that Dunkin Donuts also owns the property just like Hannaford would. Anne did want to go on record stating that she did not agree with this.

Chairman Chase asked the Lee Jay Feldman if he felt the application was complete. Mr. Feldman stated that the application was complete in respect to Section 6.9.4, which is the list of items that are required to build a plan. He states that they now have a complete application as of tonight. Mr. Feldman did state that it didn't mean that the Board could not request other items.

Mr. Feldman stated that by accepting the application tonight, it allows the Board to set a site walk date, if they choose to and set a public hearing date. This starts the review clock running. However, it says in the Town Ordinance, that you have 60 days to have a public hearing and 90 days to approve an application after the public hearing. He suggests if the public hearing takes more than one meeting, the Board should postpone the public meeting so that it is a continuance of the meeting rather than closing the public meeting. This keeps the review clock stopped in limbo for the time period so that it won't activate until after your approvals or denials are granted on the application.

Rick Reynolds motioned to accept the application proposed by Hannaford at 33 Somersworth Road as complete per Zoning Ordinance Section 6.9.4 Application Procedures.

Mark Cahoon seconded the motion.

VOTE: 5-0

Chairman Chase asked the Board about what other points that they would like to see as part of the plan. Mark Cahoon asked about the sidewalks and where Hannaford stood on that issue. Mr. McKenney stated that they are looking at feasibility of that now but are not at a position yet to make a decision. Chairman Chase stated that the sidewalks are a key issue. He also stated that one of the things that he had asked for was for more of a gable end on the end of the building facing Route 9 to make it look nicer. The Board had also mentioned that the light poles need to be low and it looks like there are some 30-foot poles. Also, on the lighting plan, there is some lighting spillage into the adjacent properties. Chairman Chase also stated that Mr. Huntley had mentioned that storage containers were not allowed but are still on the plan. Geoffrey Aleva stated that Hannaford has a strong case that indicates that the storage containers are more of a permanent situation. Chairman Chase indicated that he was talking about the recycling containers in the back. Mr. Aleva stated that they could just provide a cut sheet that indicates what the equipment is. Mr. McKenney stated that he did represent in the cover letter that they are permanent storage units. Mr. Aleva wondered if they could put like a swinging door on the side that they have open. Mr. McKenney stated that it would not be practical to put another set of doors there. Mr. Aleva did state that if you look at their

landscaping plans, the way the building sits in there and the grading comes up with the proposed landscaping, you would be hard pressed to see that side of the building very easily.

Mr. Aleva also mentioned the lighting spillage. He said that he didn't think that the lighting calcs were taking the landscaping into account. Anne Whitten asked as to why they had to have 30-foot poles. Why couldn't they have 15-foot poles? Mr. Aleva stated that it wouldn't work because they would need more poles and they would be in the middle of the parking areas. He stated that it would be more efficient to have the taller poles. He also mentioned that there are other things that Hannaford can do to shield the light spillage. Anne Whitten wanted to know what would happen after everything got approved and the light spillage onto the abutters land was still a problem. Mr. Aleva stated that they would produce a plan like the one in the packet, the P-1.0 plan that indicates the impact. Per the plan, it looks like it is .1 at the property line and that is not a lot of light. He said that there would also be landscaping there to help shield it further.

Mr. McKenney stated that they are not there to take every single comment that is made and automatically incorporate it into their plan. They usually present their plan in accordance with the Ordinance and they are more than willing to consider the requests. He does feel that that they have made significant concessions already based on previous comments by the Board. He did state that this did not mean that they would take every single comment made by the Board members or others and be able to act on them. He said that when it comes to things like the lighting situation, the idea that they are going to model it because of vegetation is not how they work. He said that he did not understand this type of request. He also stated that the idea that you can't have .1 foot canvas of light on a neighbor's property is something he has never heard of as well. He said that it is not going to be possible to address some of these requests. It is just not practical approach. Mr. Aleva commented that he believed that Mr. McKenney misunderstood what he was saying regarding the landscaping. What he was trying to indicate was that this survey doesn't take into account the vegetation and that with the vegetation added it would actually help with the lighting situation.

Mr. Aleva stated that the next thing they should do is schedule a site walk. For the site walk, the Board would like to have the center line of the access drive, the building, the perimeter of the parking, the location of the wet pond and infiltration basin designated. He would like to get an update of the status of their DEP site location permit. Mr. McKenney stated that they work with the Planning Board first and will take care of the technical permits with the State afterwards. Mr. Aleva stated that he understood that but he was wondering how they were going to handle things. He was wondering if they were going to do a Peer Review or is there going to be a 3rd party review of drainage calculations and does that actually have to happen because we are getting the site location review by DEP which goes through the drainage calculations very vigorously. Mr. Aleva also asked if the Board could get a copy of the Stantec Wet Lands Report. He said that

there is information which indicates that there is a vernal pool on the property and he does not see where this is located on the Plan. Mr. McKenney showed them where it is on the diagram.

Shaun DeWolf asked if they were going to have security lighting that was going to be on for 24 hours. Mr. McKenney stated that there would be some of these lights. Mr. DeWolf recommended that they show on the lighting plan exactly which of the lights would be used as their security lights.

Chairman Chase brought the sidewalks issue up again. He asked the rest of the Board how they felt about it. Mark Cahoon agreed that sidewalks would be needed. Rick Reynolds stated that it is basically a part of our Comprehensive Plan. It states that sidewalks need to be expanded for any Commercial development. Geoffrey Aleva stated that he thought it was a good idea within reason. You will need to look at the implications of how you get down Route 9, how you get across Route 4 to get to the corner with the sidewalk. Lee Jay Feldman stated that Hannaford had also submitted an application to the Department of Transportation for a traffic study. He stated that he sat in on the initial meeting where they discussed what was already submitted. They also mentioned what other improvements they would like to see in the study and the sidewalk issue did come up for the DOT to have on their screen. So this means that the crosswalk issue comes into play and therefore, the traffic engineer will be looking at that intersection relevant to any changes in the signals that would be needed to accommodate that.

Anne Whitten and Shaun DeWolf also stated that they were in favor of the sidewalks.

The next discussion was about the site walk. Geoffrey Aleva stated that they would like to have the center line of the driveways in and out, the four corners of the building, approximate edges of the pavement and where the wet pond is located and where the infiltration basin is going to be.

Larry Huntley stated that the public hearing is tentatively set for July 25th. He would suggest that the Board have a site walk. He also needs to get all the comments together from all of the department heads that are reviewing the application. He would then recommend that Hannaford representatives come back to the July 11th Planning Board meeting to discuss the various comments and then have everything ready for the Public Hearing on July 25th. Lee Jay Feldman stated that this would also give him plenty of time to get his information together.

Mr. Feldman also mentioned that there would be a third party storm water and engineering design review done. It will be done by Underwood. Mr. Aleva asked if this was a standard process. Mr. Feldman stated that when he was brought on board, Dwayne Morin had mentioned to him that Underwood was going to do the civil side of the review.

Larry Huntley stated that the Town wants to request \$15,000 escrow from Hannaford. Lee Jay Feldman told Mr. McKenney that he sent him an email this morning regarding the request for the money. Mr. McKenney stated that he had not seen the email but it will not be a problem.

The Board agreed to have the site walk on Tuesday, July 9, 2013 at 6:30. They decided to meet at Wick's Garage.

Geoffrey Aleva motioned to accept the waiver request to have the site survey plan at a scale of 1": 60'

Shaun DeWolf seconded the motion.

VOTE: 5-0

Rick Reynolds motioned that the Town is requesting a \$15,000 escrow payment from Hannaford for outside review.

Mark Cahoon seconded the motion.

Geoffrey Aleva asked whose review that the payment is for. Larry Huntley stated that it was for Lee Jay Feldman's time and for Underwood review.

VOTE: 4-1

Chairman Chase opened up the meeting for public comment at 7:42 pm.

Shirley Barto stated that the people up in the orchard looking down from Old County Road would have no screening for the back of the building. Chairman Chase stated that this is one of the things that they are going to look at when they do the site walk.

Laurienne Missud Martin asked about the sign located on Route 4 and whether it was a lit sign or not. Mr. McKenney stated that it was a lit sign. It will be 15 feet high, 39.01 square feet in area and is lit. Anne Whitten asked what other stores would have the same kind of signs so she could go see how much light the signs set off. Mr. McKenney stated that Gray, China, Bridgton and Buxton were good examples.

Nancy Guptill inquired about the landscaping. She stated that White Pine will grow and the buffering will not be as sufficient. She would like to see more low to the ground foliage for more long term buffering.

Rick Stambaugh stated that he had sent a letter to the Board asking for two things. One thing was that the Board document finding of fact to recent performance standards to preclude violations. The other thing was to have adequate enforcement provisions. He was wondering where these things stood. Chairman Chase replied that his letter had been read at the last meeting and then filed away for future reference. Mr. Stambaugh asked what that meant and Chairman Chase answered that we would bring it back up at a pertinent time.

Lee Jay Feldman stated that part of his job on this project is preparing findings of fact, whether it is to approve or to deny so that everything will be legally covered in case of legal action by either side.

Chairman Chase closed the meeting to public comment at 7:55 pm.

4. Other Business:

Lawrence Huntley stated that there would be 2 additional items on the agenda for the next meeting. One is Jude Flippone and the other is Unitil Corporation.

5. Adjournment:

Rick Reynolds motioned to adjourn the meeting at 7:58 pm.

Mark Cahoon seconded the meeting.

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