

NORTH BERWICK, MAINE 03906

MINUTES OF PLANNING BOARD AUGUST 8, 2013

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

Absent: Lawrence Huntley, CEO

Also Present: Neil Rapoza, Lorinda Hilton, Shirley Barto, Charles Barto, Mark Adler, Nathan Dowling, Matthew Begin, Jonathan Koelker, Carolyn Hall, Philip H. Rowe, Jesse Lindland

1. Call to Order:

Chairman Barry Chase opened the Planning Board meeting at 6:30 pm.

Chairman Chase stated that Lawrence Huntley is on vacation this week.

2. Review Previous Minutes:

Rick Reynolds stated that on Page 5, on the 4th line down, remove the word “would”. Rick Reynolds motioned to accept the July 25, 2013 Planning Board minutes as revised. Shaun DeWolf seconded the motion.

VOTE: 6-0 Abstain: 1

3. Current Business:

Chairman Chase stated that the first item on the agenda is Patterson Companies, LLC. The applicant proposes a Fitness Center at 19 Buffum Road. Nathan Dowling is looking to do fitness classes, specializing in small groups. They would run 3 hours in the morning and 3 hours in the evening. He estimates that there would be no more than 15-20 customers per day with probably no more than 25 members.

Mark Cahoon asked if this was going to be in one of the warehouses on Buffum Road and the applicant stated that it would be.

Chairman Chase stated that there was a letter from Lawrence Huntley, CEO to the Planning Board. It reads: “Nathan Dowling, Lessee Applicant proposes to open a Fitness Center at 19 Buffum Road. This property is owned by Patterson Companies, Map 15, Lot 3. The property is an existing grand fathered industrial use in a Residential 1 zone. Article 6.9.6 Conditional Use should be followed. Article 4-11d Recreational

Activity Building, which is a conditional use in the industrial zone and a conditional use in Residential 1 zone. Article 4-11e Use of Similar to Conditional Uses. It is a CU in both the Industrial zone and the Residential 1 zone.”

Chairman Chase stated that Larry explained to him that it is close to being a recreational activity building but it falls under a similar to conditional use.

Jon Morse asked if the workouts would all be inside. Mr. Dowling stated that everything would be inside. He did state that if there were to be some running involved, it may take place outside but that is not currently on their agenda.

Chairman Chase asked what the hours would be and Mr. Dowling stated that they would probably open between 6-7 for 3 one-hour sessions. They would then close for the day until about 3 or 4 for another set of 3 one-hour sessions.

Rick Reynolds asked if there was going to be any construction inside. Mr. Dowling stated that they would be putting down rubber matting and painting.

Geoffrey Aleva inquired as to what type of classes were being offered. Mr. Dowling stated that they are strength and conditioning classes. A typical class would include a warm up, body weight exercise such as push-ups and jumping jacks and then Mr.

Dowling would then coach them for about a 15-25 minute workout.

Mark Cahoon asked Mr. Dowling if there was going to be a need for any additional outside lighting but he said no.

Chairman Chase inquired about what they would have for a sign. A representative from Patterson Companies stated that there was an existing sign there that could be used. One of the Board members asked if there would be any locker rooms or showers. Mr. Dowling stated that there would be none.

Shaun DeWolf asked about how many members. Mr. Dowling said that they currently had about 10 members and doesn't see having more than 25 actual members. Shaun stated that there are only 15 parking spots allocated for them according to their plan. Mr. Dowling stated that he had permission from another tenant to use the remaining parking spaces.

Jon Morse asked if they were going to use the whole building. Mr. Dowling said that he is only using the rear 3,000 square foot. Geoffrey Aleva asked if there were any doors and windows. Mr. Dowling stated that there is one entrance door and one overhead bay door. There is one window on the left of the door and one on the back side, which is the railroad side. Mr. Aleva also stated that there should be no noise issue.

Chairman Chase opened the meeting to public comment at 6:47 pm.

Shirley Barto stated that her concern is with the way the Ordinance is written. She states that we don't have anything in the Land Use that covers this. She also was wondering about when this was in the paper and why it wasn't on the website. She states that the

only people that received notice of this were the abutters. Chairman Chase stated that he did not know that and Mr. Huntley is not here to answer that. He stated that he did meet with Larry last week before he went on vacation and was given the rundown regarding this proposal. He states that Larry interprets this as a Recreational Activity Building. Charles Barto stated that when he met with Larry, he told Mr. Barto that it would not meet the Recreational Activity Building. Chairman Chase said that Larry also stated that use is similar to conditional use. Geoffrey Aleva stated that you could also look at this as a General Business rather than as a Recreational Use, which is allowed. Mr. Barto stated that it is now Industrial so Similar Use would not fit for this. Anne Whitten stated that it is Industrial Use but anything that is non-conforming use can be as non-conforming or less conforming. It can't be more conforming. Chairman Chase stated that our Ordinance does not have a definition of a Recreational Activity Building, so it is up to our discretion.

Charles Barto asked about what kind of noise there would be. Mr. Dowling stated that there would be no loud music and there would be no banging. Mr. Barto stated that he had no problem with the business, but did have a problem with the notification process.

Carolyn Hall was concerned about the traffic. She is located a little ways down the road from the building and across the street. She was afraid that the business was going to be a big gym like Gold's Gym.

Lorinda Hilton asked Mr. Dowling about future plans and what he intends for five years from now. He stated that he has only signed a one year lease and he plans on finding a different location after the year is up.

Chairman Chase closed the meeting to public comment at 6:59 pm.

Chairman Chase stated that the Board was going to go through the factors applicable to a conditional use. Article 6.9.6 states: "Considering a conditional use permit, the Planning Board shall evaluate immediate and long range effects on the proposed use on the following factors:

1. Compatibility of the proposed with adjacent land or other property in the district. He stated that it is grand fathered use.
2. The need of a particular location for the proposed use. They are all set with this.
3. Impact of the proposed use on local population and community facilities. Board states no impact.
4. Impact on transportation facilities. Board states no impact.
5. Maintenance of safe and healthful conditions. They are all set with this.
6. Existing topographic and drainage features. Chairman Chase stated that this is an existing site so no change
7. Prevention of water pollution and sedimentation. This is all set.
8. Location of a site within a flood plain. They are not located in a flood plain.

B. Before any conditional use permit may be issued, the Planning Board shall make written findings certifying compliance of performance standards of Article 5 of this Ordinance. Certify satisfactory provisions and arrangements have been made and the following were applicable:

1. Ingress and egress of the property in the proposed structures hereon reference for vehicles, pedestrian safety and convenience, traffic flow and control and access of a fire or catastrophe. Chairman Chase asked if the building had sprinklers and Mr. Dowling stated that it did not.
2. Off street parking and loading areas where required. Chairman Chase stated that they were okay with their parking plan.
3. Trash removal – Chairman Chase did ask if they had a dumpster on site. Mr. Dowling was not planning on having one but will put one, if the Board requires it. He stated that he would be taking any trash with him.
4. Utilities – Chairman Chase stated that it was not an issue because it is an existing building.
5. Screening and buffering- The Board have no issues with this.
6. Sign – There is an existing sign. Shaun DeWolf stated that he might want to check with Lawrence Huntley regarding the square footage of the sign. Chairman Chase stated that they would probably need a sign permit anyway.

Chairman Chase stated that in looking over Article 5, the Noise Ordinance comes to mind. Between 8 pm and 7 am, you are limited to only 65 decibels in the Industrial zone and 70 decibels during 7 am to 8 pm.

They won't be emitting any air or odor or glare. Storm water runoff shouldn't change. Erosion control won't change. Setback and screening won't change. Water quality shouldn't change.

Rick Reynolds mentioned that the applicant changed the plan for parking from 15 spaces to 24.

Geoffrey Aleva motioned to accept and approve the conditional use application presented by Patterson Company, LLC for a Fitness Center at 19 Buffum Road (Map 15, Lot 3).

Rick Reynolds seconded the motion.

VOTE 5-0

Chairman Chase told Mr. Dowling to see Larry sometime next week when he is back from vacation for his permit.

The next item on the Agenda is Jordan Kelley. The applicant proposed to expand an existing structure within the Shoreline Zone, 18 Otter Cover Lane (Map 13, Lot 13). Geoffrey Aleva has recused himself because he is affiliated with Civil Consultants. Chairman Chase has moved Jon Morse up to full voting status for this matter.

Neil Rapoza from Civil Consultants is here representing the homeowner, Jordan Kelley. They have a conditional use application for Shoreland Zone to relocate an existing

structure with some expansions. The expansion is not anything that requires a special expansion allowance regarding the square footage. However, they are raising the structure by 4 feet instead of 3 feet, which will push it into a special exemption allowance. He states that this is because of the first floor elevation. Anne Whitten asked if Larry Huntley had given the Board the formula for that and Mr. Rapoza stated that it was included in a letter that was presented to the Board. Mr. Rapoza read it into the record: "The proposed work involves the relocation of an existing waterfront structure and associated site work. This structure is currently 25 feet from the water of Bauneg Beg Pond, which is classified as a Great Pond. It is proposed that the structure be moved 30 feet upland to allow for a greater vegetated area between the structure and the water's edge. Existing concrete patio and stairs are to be removed and replaced with landscaping. Currently, the majority of the structure is within the 50-foot setback from the shore with all the building area within the 75-foot setback. The proposed relocation will result in 582 square feet. (Mr. Rapoza explained that they are actually including a deck, which will go around the side of the building now bringing it up to 754 square feet within the 75-foot setback. Anne asked if we had update showing this and Mr. Rapoza stated that the current plans the Board had were the updated plans.) He states that 100 square foot is allowed. We have 1220 square feet within the 100-foot setback and 1500 square feet is allowed. The building height will also be held below the maximum of 20 to 25 feet. The structure is within the 75 and 100-foot setbacks, respectively. Since these area height limits are not exceeded, a special expansion allowance is not required per Section 145-E-1-A. A 4 x 20 foot addition to the inside of the building is proposed. A partial second floor is also proposed that will be located entirely outside the 75 foot shore offset. The proposed relocated building will be placed on a new poured foundation that will create storage area and basement. To maximize the amount of storage area and headroom in the basement, it is proposed that the existing first floor elevation be raised by 4 feet, which will require a special expansion allowance. The relocation of the building will require the replacement of the existing subservice disposal system and the associated septic tank and lines. The design for the new system is being designed by Thomas W. Harmon, PE, the site evaluator 114. Since it is being designed as a replacement system, it will meet all site requirements for such systems. See attached HHE200 for additional information and the design of that. It will be a chambered system. The area within the 50-foot of the shore will be vegetated with lawn and landscaping, shrubs and bushes. No trees currently exist at the shore. It is proposed that the planting of the new landscaping vegetation along with the removal of the existing pervious area will have a positive impact on the shore. For this reason, it is my opinion, that the proposed landscaping meets the intent of Section 145-b-1-b-3, which are the replanting requirements for disturbance along the shore. Marine patrol have been shown the proposed site plan and included in the submission. Care will be taken throughout the construction to ensure the protection of Bauneg Beg Pond."

Mr. Rapoza stated that there would be a silt fence around the edges of the site. Shaun DeWolf asked if it was the resident's choice to make it a sill fence. Mr. Rapoza stated

that they were going to do the silt fence for fear that anything else they are going to have may channelize flow that would go right into Bauneg Beg.

Chairman Chase stated that he did speak to Larry Huntley regarding this proposal. He looks at it as an improvement because it is moving the building away from the lake. Anne Whitten asked if he had a DEP application. Mr. Rapoza stated that they have a PDR on file there. Anne stated that the Board should have a copy of that. Chairman Chase stated that Larry would need a copy before issuing the building permit.

Shaun DeWolf asked if the concrete walk was being removed or if it was going to be ripped up and relayed. Mr. Rapoza stated that it would be ripped up and they would install some sort of patio brick. Shaun stated that they check with Larry regarding the concrete block walk that they would be ripping up and what exactly they could do for replacing it.

Jon Morse asked if the stone retaining wall was going to be staying. Mr. Rapoza stated that it was coming down.

Chairman Chase asked how much of the building itself is being expanded. Mr. Rapoza stated that there is a 4x20 foot section on the front side to allow for an easier transition. They are going to have to walk up stairs into the first floor now so this will make it easier.

Jon Morse asked about the elevation 213 where the new house is sitting. He wanted to know how much above that is going to be the top of the foundation. The French door is going to be an elevation of 217.9 and it will be a good 4 feet above that.

Chairman Chase asked if this was a year round residence and Mr. Rapoza stated that it was going to be used as a full time residence.

Chairman Chase opened the meeting for public comment at 7:27 pm.
Chairman Chase closed the meeting for public comment at 7:27 pm.

Shaun DeWolf if they had storm water prevention procedures on file and Mr. Rapoza stated that he did.

Jon Morse motioned to accept the conditional use application for Jordan Kelley to relocate and expand an existing structure in the Shoreland Zone at 18 Otter Cove Lane with the stipulation that Lawrence Huntley, CEO keep an eye on it.
Mark Cahoon seconded the motion.

Shaun DeWolf added an amendment to the motion. He would like to add two conditions to it. 1. To have the CEO inspect silt fence prior the earthwork commences. 2. To inspect the demolition of the concrete area down by the waterfront periodically as he sees fit.

Mark Cahoon withdraws his seconding of the motion.

Jon Morse has motioned to accept the application with the two conditions added.

Mark Cahoon seconded the amended motion.

VOTE: 5-0

Chairman Chase moved Jon Morse back to alternate status and Geoffrey Aleva has rejoined the Board.

Chairman Chase stated that the next meeting would be at the Community Center and is a continuation of the Public Hearing regarding Hannaford.

Mark Cahoon motioned to close the meeting at 7:35 pm.

Shaun DeWolf 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