

## **NORTH BERWICK, MAINE 03906**

### **MINUTES OF PLANNING BOARD NOVEMBER 14, 2013**

**Present:** Chairman Barry Chase, Geoffrey Aleva, Jon Morse, Rick Reynolds, Mark Cahoon, Anne Whitten, Lawrence Huntley, CEO

**Absent:** Shaun DeWolf

**Also Present:** Dwayne Morin

1. Call to Order:

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

Chairman Chase moved Jon Morse to full voting status.

2. Review of Previous Minutes:

Rick Reynolds stated that he found an error on Page 1, sentence 8 where it states "...asked what Mark meant my shared utilities.". It should read: "... asked what Mark meant by shared utilities.".

Jon Morse motioned to accept the amended minutes from October 24, 2013.

Rick Reynolds seconded the motion.

VOTE: 5-0

3. Current Business:

Chairman Chase stated that the agenda for tonight was regarding proposed Zoning Ordinance changes. Lawrence Huntley stated that he asked Dwayne Morin, the Road Commissioner to come in to speak to the Board as they had requested at the last meeting. He is here to discuss the issue of the discontinued roads and the lots that are not fronting on approved town roads at this point.

Dwayne Morin stated that one of the proposals that Larry had put before the Board was that before any building is built on the lot, the land owner has to improve the driveway for road frontage in front of their house. He said that it was his understanding that there were some concerns from some of the Planning Board members regarding this matter. He stated that any new lot has to do this. He said that if you have an existing lot and you carve out a lot, the Town requires you to build a road in front of your house. He said that the reason for this is for public safety so the Town can get the fire, police and ambulances to your house. If there is no road than there is no way to get to the home if there is an emergency. He also stated that if they do try to

go down a road that is not fit for the fire trucks, police cars and ambulances, the taxpayers end up paying for that burden. He said it is not so much for the first person that builds his house but for the others that will add on down the road. He stated that under our current Ordinance, the old lots do not have to provide this road frontage. He said that he would like to have the Ordinance amended to state that if you are going to build a house in Town, you are going to have to have approved road frontage in front of your house for public safety reasons.

Anne Whitten asked Dwayne what he means by improved roads. Dwayne stated that they are recommending that it be built to private road standards, which is the lowest standard that we have. Anne asked how Dwayne would figure the cost of the landowner doing this. Dwayne said that it would vary. It could cost as little as a couple of dollars per foot to a hundred dollars per foot. Anne asked if the West Roads would apply to this Ordinance and Dwayne stated they did not because those are improved roads. He stated that the roads that he is discussing are like back Beech Ridge Road, Tout Brook Road and back Bauneg Beg Hill Road.

Dwayne stated that there was some talk about reducing the private road standard from 18 feet to a smaller width but he would recommend against that. He stated that the reason why he would recommend against this is because when you have two fire trucks side by side, you have 18 feet. He stated that it would not be feasible to have the fire trucks park back to back. He said if an ambulance is the first truck in and then a fire truck comes in behind it, the ambulance will not be able to get out.

Dwayne stated that this is an additional cost for the builder. He did state however, that these back lots are not selling for the price of what a lot on a paved road would sell for. He stated that paved road lots right now are selling from between \$60-\$85 per lot in North Berwick. Right now, you can get 100 acres for \$15,000 on back Beech Ridge Road. Dwayne stated that people see that it is cheap for the land but what they don't always realize is that about the only way to get to some of these places is by four wheeler.

Dwayne stated that they have been making people do this for years as a matter of practice. People have been buying the land, building the road and building their houses. But as they read the Ordinance they saw that they could not really do this.

Chairman Chase stated that if someone owns a 100 acre lot and they wanted to build a house way in the back of their property, the Town would have no say on what their driveway would be. Dwayne and Larry stated that he was correct.

Geoffrey Aleva asked Dwayne what the process would be if they extend this to private road standards. Would the land owner just go to Dwayne and state that they are going to do or do they have to submit design plans? Dwayne stated that they would not. He said that he would go out to the lot and see where they would be building and he would tell them what they would need to do with the gravel. He said that he would go out and inspect it four times while they are

building. Dwayne stated that the only time that they would require a road design is if it would get really sketchy. He said that they have never had to do that.

Jon Morse stated that he thought that the main reason that they wanted to discuss this was because the Town had decided to do nothing more with the road but they still owned it. Dwayne stated that the discontinued roads were not owned by the Town. Jon Morse asked him who owned the roads and Dwayne stated that the persons on either side of the road own it to the middle. Mark Cahoon asked if it would be considered a right of way for all the lots there. Dwayne stated that it would depend on how the road was discontinued. He said that when a Town discontinues a road, they say that they are no longer maintaining that road. Basically you draw a line down the middle and half goes to one side and half goes to the other side. He stated that in some cases, a right of way is maintained for public access but the Town does not own it. Dwayne did state that the roads that they were talking about were not owned by the Town. Jon Morse stated that if a person wants to build a house on the back of these lots, he has to build the road to get to his property. Does this now become a Town road or is it a private road. Dwayne stated that it would always be a private road. Jon stated that this owner had to build the whole road to get to his lot but if somebody buys a lot before his house, then the road is already done so they don't have to worry about it. Dwayne stated that that is one of the down sides for this. Jon stated that this was the part that he did not agree with. He feels that the Town should build the road, but Dwayne stated that it should not be up to the taxpayers to pay for this. Jon stated that the Town was going to make money off of these land owners. Dwayne stated that the Town will lose money on any house that has a child in it. Mark Cahoon stated that the owner of the back lot could always approach the owners of other lots to see if they would like to chip in to improve the road. Mark stated that people would probably be willing to do so because then it would bring up the value of the property lots.

Geoffrey Aleva asked if there was some kind of Town regulation for maintenance of a private drive. Dwayne stated that they cannot mandate maintenance. Dwayne stated that if they see a private drive that is grown in, they will go to the homeowners and let them know that the Town's vehicles would have a hard time getting through if there was a situation and ask them to do some maintenance. Also, if the homeowner's insurance company does an inspection and thinks it is too grown in, they will call the Town and ask them if it is a problem for the vehicles to get through. If it is, the insurance company can tell the homeowner to take care of it.

Chairman Chase asked if there was some State guidelines on what to do in cases like this where the Town has abandoned these roads. Dwayne stated that there are two different legal terms that they are dealing with. One is a discontinued road, which is when the Town actually votes and states that they are no longer going to maintain a road. The other term is abandonment which is when the Town hasn't done anything to the road in over 30 years. If the Town has done nothing to the road than the Board of Selectman has to vote and state that the road is abandoned.

Dwayne also stated that going down roads that are not easily passable is also very hard on the equipment. He stated that fire trucks over the past few years have a much lower clearance rate than before. They are made to drive on pavement not on back roads.

Mark Cahoon wanted to know when a private road ceases to be a public right of way. Dwayne stated that if there is a public right of way then it is always a public right of way. Mark stated that if it was a private road then there should be no public right of way. Geoffrey Aleva stated that it was two different things. They only have to improve the road to private road standards.

Dwayne stated that all the Planning Board had to do was make a motion to bring forth to the Town Meeting for the townspeople to vote on. Geoffrey Aleva asked Larry how it was being handled now for people who want to upgrade. Is it a condition of occupancy? Larry stated that it had to be a standard before the start of construction.

Rick Reynolds asked Dwayne if a minor road needed a shoulder and Dwayne stated that it did. Anne asked why a 2 foot shoulder is needed. Dwayne stated that it is to protect the edge of the road and Larry stated that it is also for water runoff.

Anne Whitten asked if a decision needed to be made tonight since the Town meeting was just in April. Dwayne stated that the Board had until February to make a decision. Chairman Chase stated that the Board should vote on everything by the end of the year. Dwayne stated that the Board could then hold their Public Hearings in January. Everything needs to be submitted to the Town Clerk in February so the Town Attorney can also review everything. The Board of Selectmen will then hold another Public Hearing in March.

Geoffrey Aleva stated that he would like to see a map with all the roads that are included in this issue. Dwayne pulled the map of the town out and pointed out the roads that this Ordinance would represent. They include Beech Ridge Road, Tout Road, Chase Road, Bauneg Beg Hill Road, Estes Hill Road, Stud Marsh Road and Hartford Lane.

Rick Reynolds motioned to accept the concept to be under Section 4.3.b. and would state: All existing lots hereinafter created shall possess a minimum frontage on (1) public road, or on (2) a private drive or other thoroughfare or access route which meets the specifications for road construction in the Town of North Berwick Street Design & Construction Standards Ordinance. All existing building lots shall meet the construction standards outlined in 2.b.

Jon Morse seconded the motion.

VOTE: 5-0

Larry stated that he has given the Board members a list of the definitions that the Board had asked him to get from the Town attorney. Recycling is defined as the collection, separation, recovery and sale or reuse of materials that would otherwise be disposed of or processed as waste or the mechanized separation of waste, other than through combustion, and the creation and

recovery of reusable materials other than as a fuel for any purpose or as landfill. This term does not include the processing or handling of construction and demolition debris for any purpose nor does it include activities related to redemption centers.

A recycling facility is defined as land and buildings used for the recycling of solid or liquid waste. "Recycling facility" does not include redemption center.

A redemption center is defined as facilities used primarily for processing bottles, cans, and other similar items returned for deposit.

Larry stated that he will clean these up and retype them for the next meeting and put them where they are supposed to be in the Tables.

Larry stated that the in-law apartment definition was a little lengthy and could probably be shortened. He obtained a copy from an Androscoggin County town. It reads as follows:  
Definition – In-law apartment means an accessory apartment contained within or attached to a single-family dwelling which meets the standards of Article 5.2.20.

#### 5.2.20. In-law apartment standards.

An in-law apartment meeting the following standards shall be considered to be part of a single-family detached dwelling and shall not be considered to be a dwelling unit in terms of the space and bulk standards of article 4.11F. In-law apartments shall be permitted only in those districts where they are allowed uses. Apartments not meeting these requirements shall be considered to be separate dwelling units and shall meet the use and space and bulk requirements of article 4.11F.

(1) The in-law apartment shall be accessory to the use of the premises as a single-family detached dwelling and only one on-law apartment shall be created as part of a single-family dwelling.

(2) The in-law apartment shall be created within or attached to a single-family detached dwelling.

(3) The person(s) occupying the in-law apartment must be a first, second, or third degree relation (parent, child, stepchild, sibling, aunt, uncle, niece, nephew, or grandparent) of the principal occupant(s) of the single-family home either by blood or by marriage and the burden of proof of this relationship shall be on the homeowner.

(4) The creation of the in-law apartment unit shall not alter the single-family character of the property. The following standards shall be met in creating the unit:

- a. The in-law apartment must share a joint entrance with the single-family home and the in-law apartment shall not have a separate front entrance from the outside. A joint entrance shall consist of an enclosed structure with access to the in-law apartment and the single-family dwelling. Any second-story side entrance must be contained within the building envelope; and
- b. Provisions for (1) additional parking space shall be made in conformance with article XII, section 17. However, no additional curb cuts or driveways may be created to facilitate the

creation of the in-law apartment and any new or expanded driveway entrance curb cut on the property must not exceed twenty-four (24) feet in width.

c. The habitable area of the in-law apartment shall not exceed 900 square feet and shall not contain more than two (2) bedrooms.

(5) One of the units must be owner-occupied.

(6) All applicable fire safety and egress laws must be observed in the creation of the in-law apartment.

(7) There shall not be separately metered electric or water service for the in-law apartment.

(8) In-law apartments on properties with private sewer shall comply with the State of Maine Subsurface Wastewater Disposal Rules for new or expanded systems, as applicable.

(9) Evidence of documentation recorded in the York County Registry of Deeds identifying that the in-law apartment and the use of the in-law apartment must conform to the performance standards of article 4.11F and article 5.2.20 of the Zoning and Land Use Ordinance. Said evidence must be provided to the Town of North Berwick prior to issuance of an occupancy permit for said in-law apartment.

There were some further discussions among the Board members regarding what should be included in the definition. Mark Cahoon stated that he would type up a definition that he had come up with for the next meeting for the Board to review.

#### 4. Other Business:

Larry stated that the next meeting was on December 12, 2013.

#### 5. Adjournment:

Mark Cahoon motioned to adjourn the meeting at 7:45 pm.

Jon Morse 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