

NORTH BERWICK, MAINE, 03906

MINUTES OF PLANNING BOARD JANUARY 26, 2012

Present: Chairman Barry Chase, Julie Fernee, Shaun DeWolf, Rick Reynolds and Lawrence Huntley, CEO.

Absent: Mark Cahoon

Also Present: Danny Shaw, Justin Shaw, Richard Hupe, Ruth Hupe, Melissa Johnson Pierce, Jere Pierce, Eleanor Phinney, Gerald Schulmaier, Rodney Normand, Yvonne Normand, Phil Thain, Jeannie Emerson, Kondyleigh Provencher, Stanley Hall, Michael Gosselin, Harry Forbes, Patrick Gagne, L. Williams, Linda Rose, Steven Connelly, Shane Norton, Robert Gordon, Jennifer Gordon, Daniel Gillies, Harland Roberts, Martha Roberts, Julie Murray, Maureen Ouellette, Deborah Briggs, Betty Hall, Laura L., Todd Winship, T. Steely, Larry Litvinchuk, C. Hartford, Stephen Collard, Alan Doucette, Jamie Fenderson, Aaron Fenderson, Todd Hoffman, Lincoln Harrison, Linda Marx, Brooke Corson, Monica Marvin, Charles Marvin, Donna Rand, Joel Littlefield, and Cheryl Hoffman.

1. Call To Order:

Chairman Barry Chase opened the Public Meeting at 6:35 p.m. on the proposed Zoning Ordinances. There are three items on for Public Hearing: Private Drive (change), Professional Office (definition) and Farm and Forest (proposed changes).

2. Current Business:

CONTINUED:

A. Proposed Zoning Ordinance Changes---Public Hearing (1-26-2012)

Chairman Barry Chase read into the record the definition of Private Drive and the proposed definition for Private Drive.

Add (change):

Private Drive: (Reads) A privately owned access way or right – of – way not intended to be dedicated to the Town serving no more than two dwelling units.

Private Drive: (proposed) A privately owned access way or right – of – way not intended to be dedicated to the Town and providing frontage for no more than two dwelling units.

Lawrence Huntley, CEO explained as it is right now you can have only two dwelling units on a Private Drive that means frontage on the Town approve road already, and you can't get a driveway coming off of that as a Private Drive or Private Way that counts as one of those

dwelling on that private road. You are allowed only two dwellings on that road. That is one and one more.

If the Private Drive is voted on the change at Town Meeting that frontage on whatever Street that is, no matter if their driveway is serving that house would not count for that Private Drive, so you could have theoretically three houses on that drive. There a lot of situations in Town where people are losing rights to build another house just because they had frontage on Town road and they can't build another private road in so theoretically there is only permitted on that road. I would say there is half a dozen issues in Town that we would like to clean up and allow people to use their land properly to access the back of their property. That is why we propose the change.

Martha Roberts asked if the road have to be to Town Standards.

Lawrence Huntley, CEO answered yes it still has to be to Town Standards. The only change it is providing is frontage not accessed.

Jamie Fenderson asked so my application that I started. I need frontage for 600 feet for both houses to have a lawn on their Private Drive.

Lawrence Huntley, CEO answered you have it on each side. You have to have 300 feet on both sides of that road.

Chairman Barry Chase closed the Public Hearing on Private Drive at 6:45 p.m.

Rick Reynolds move to send proposed change of Private Drive Ordinance to Warrant for vote, Julie Ferner seconded a motion. Vote, 4-0 (Passed)

Chairman Barry Chase opened the Public Hearing on Professional Office at 6:47 p.m.

Chairman Barry Chase explained that we do not have in the Town of North Berwick a definition in the Ordinance for Professional Office so this will add a definition into our Ordinance book.

Chairman Barry Chase read into the record the definition for Professional Office.

Professional Office: An office of professional practice of which licensure qualifications and standards are required for compliance with State Law.

Lawrence Huntley, CEO explained why we are placing this in the Ordinance is because we do not have Professional Office but we allow Professional Office in certain zones so would be nice to know what a Professional Office is to allow it or not. For example: a lawyer's office, a cosmetology, a doctor's office, business that would require a license.

Chairman Barry Chase closed the Public Hearing on Professional Office at 6:50 p.m.

Rick Reynolds moved to send the Professional Office definition to Warrant for vote, Shaun DeWolf seconded a motion. Vote, 4-0 (Passed)

Chairman Barry Chase opened the Public Hearing on the density requirements for Minor and Major Subdivision in the Farm and Forests Zone at 6:51 p.m.

Chairman Barry Chase explained that the reason for this change is to comply with the proposals from the Comprehensive Plan.

Chairman Barry Chase read into the record:

This Article is proposed to read; 5.2.a Minor and Major Subdivision density requirements; Cluster Subdivision development may be used in all residential Zones. The density requirements for a cluster development in all residential zones except for the Farm and Forest Zone shall be in accord with Zoning Ordinance Article 5 of the Performance Standards 5.2.11. In the Farm and Forest Zone, when a Standard Subdivision is desired, minimum lot size density requirements for the zone are 240,000 s/f per lot. If a Cluster Subdivision is submitted, the minimum lot size will be 160,000 s/f per lot.

What it does, if you want to subdivide your property with the traditional subdivision is asking that you have 6 acres per lot. If you want to have a cluster subdivision, you can base your calculations on 4 acres per lot. It is basically trying to put promote cluster development in Farm and Forest to save undeveloped land.

Rick Reynolds spoke: this Ordinance is based on the development in the growth zone which is in the downtown area and not increase the density of houses out in the Farm and Forest because one of the mandates of Maine is to maintain Open Space if possible. In the Comprehensive Plan, this was one of the ideas was to change the 4 acre zone to a 6 acre zone for all of Farm and Forest the Planning Board decided that that might be a little excessive. What we really need is to increase the amount of Open Space that is mandated by the State of Maine to maintain an agricultural and the Farm and Forest and keep the open fields. This is our proposal to do that within the Zoning Ordinance in North Berwick.

Todd Hoffman spoke: I wrote this Ordinance and somebody asked why and as Rick mentioned we all voted on the Comprehensive Plan a couple of years ago and in that Comp Plan there was a lot of research, we received a lot of opinions on what people's dreams were for North Berwick in 10 to 20 years down the road. One of the major things that kept on coming up was we liked a rural Village and rural Farm and Forest. We like how the mill was developed in the Town but we also liked the rural area in Farm and Forest. How do you do that and be fair, we have 4 acre zoning in Farm and Forest. The Comp Plan had a computer build out that showed what Farm and Forest would look like of all the 4 acres, divided up that would like the suburbs. How can we preserve contiguous lots of land and fields and one way to do that is to require people to do Cluster Development. That means you have 4 acres per house but you cluster them all down into one acre and you can keep the rest of land as Open Space. If there were 40 acres technically you could have 10 houses but instead of spreading them all over the place. You have those 10 houses only on 10 acres and the other 30 acres would remain Open Space that is the idea. It is great for the fields the water and the farmers what we all wrestle with is that, do we want to mandate Cluster Development various towns have done it. Alfred, Elliott and York have done it and the

idea of this Ordinance is to be given a choice but to encourage Cluster Development so that we are not changing the 4 acre zoning. I have two children and if I want to break off to lots from my property. I can do it at 4 acres so this doesn't change that at all. All this does is address Subdivisions. It says if you want to go with Subdivision, you can do a Cluster in 4 acres, but if you want to spread it out as in the Subdivision the lot requirement will be 6 acre. This is about preserving the land in Farm and Forest.

I am going to read what is in the Comprehensive Plan that was voted on:

Planning Board high priority: the action is developers for subdivisions is to Cluster in three-quarter acres or more and retain as much Open Space as possible. This Ordinance is not to require you to do a Cluster but incurs use you to do a Cluster.

Charles Marvin spoke: to carry on what Mr. Hoffman just said you don't Cluster there are a number of big lots and it says over and over again that you can just Cluster. Cluster development is encouraged for Open Space. What I'm trying to figure out what is Open Space does that mean that anyone is allowed to go onto your land or is it supposed to be only Woodland. There are a lot of ways of manipulating Clustering in Farm and Forest in making more money and a Clustering Subdivision one you can sell the land that is put aside, you can set up a corporation you can set up an organization but not necessarily get what you want.

Lawrence Huntley, CEO explained what Mr. Marvin is trying to say is that most of the time a Clustered Subdivision. They put on the stipulation that land will remain Open Space forever and it is not even allowed to be developed into another house or anything else. The Planning Board takes care of that issue in the process.

Brooke Corson spoke: my issue is that I currently have 24 acres. I can get how many building lots of it approximately 6 and I don't need any Open Space if I have the same 24 acres under your proposal. What will happen?

Chairman Barry Chase answered. If you Cluster, you can Cluster into six lots 1 acre a piece and you would put 18 acres into Open Space. If you do traditional Subdivision you would only be able to get 4 lots.

Brooke Corson spoke: so if I Cluster. I can still get six and the rest into Open Space you said the developer owns the Open Space.

Lawrence Huntley, CEO answered the subdivision owns the Open Space.

Brooke Corson spoke: you see today that all these Subdivisions are sitting empty. These people are going bankrupt then who pays for the Open Space.

Lawrence Huntley, CEO answered taxes would be paid by the mortgages.

Brooke Corson spoke: with the Open Space. Who gets to use the Open Space?

Julie Fernee answered. It is the same as your own property. People will not walk on your property unless you allow it, you can post no trespassing.

Brooke Corson spoke: how do we prevent Open Space from being misused. Who make sure that it is properly used?

Chairman Barry Chase answered by the neighbors, the Town Code Enforcer.

Brooke Corson spoke: that I am opposed to it as a resident of North Berwick, because it is going to take away value as a landowner.

Jamie Fenderson spoke: I like start off with that I am opposed I think is going to take away the value. I don't want to see Cluster across the street to me. I think it takes away the value. Most people here don't want that my concern if this goes through the next stage will be Farm and Forest will be lost. Is there anyone else on the Planning Board for Cluster development versus single residence?

Monica Marvin spoke: in a Cluster development you essentially have a committee that I answered property, you have to have a car in the garage, you can have a clothes line, there is no hunting, and you have a whole bunch of rules and bickering. First of all if you will track that make enough money. I don't care. I want my little 1 acre and the rest we will just tell people what to do. We are going to demand more police were going to demand, demand and demand. I want town water and I want town sewer. You're adding a whole extra layer ugly bureaucracy, which takes away from individual responsibility. We have a lot more people here that are responsible for themselves that are responsible for how they keep their property that like the Open Space that live in North Berwick, because they don't have that basic distrust of their neighbors, particularly neighbors that may own more property than they do they not assuming they're going to put negative attitudes to people downtown by petitioning our woods and closing off land, nor do we expect Town water or Town sewer. I didn't expect the Town to plow my mile road. We have been here for 20 years and very happy way off in the woods. All this is going to do is lead to more limitations as tax payers of our property. If you look at Farm and Forest zoning has been in effect for nearly 40 years. Once you going to zoning you were controlling to some extent a development and the Town so that has already been in place and all these years. What hideous development has appeared in Farm and Forest that we would require any changes when the State asked for a Comprehensive Plan? There is already control. There are already things in place you have frontage to have setbacks and you have permits. Obviously I am opposed to this.

Linda Marx spoke: I own 300 acres in North Berwick, so this matters to me. First of all I want to say that the State of Maine requires this Comprehensive Plan and I'm not always sure that the State of Maine is always correct. I just want to know are our choices is to have this plan or will go to the straight 6 acres is the 4 acres no longer in the mix. Is that true?

Chairman Barry Chase answered that the 4 acres is still in the mix, if you Cluster.

Linda Marx spoke: so if we don't approve this will he go to the straight 6 acres.

Chairman Barry, Chase answered it would stay the same as it is now. If this gets shot down it will be as it always has been no change.

Linda Marx spoke: my second question would be what if I didn't want to be a Subdivision owner. What if I just want to sell some land is it still going to be an option of selling land without subdividing. I guess this is the part I don't understand I'm trying to hold onto my land without subdividing but it's getting harder and harder every year.

Lawrence Huntley, CEO answered. You can sell your land at any time as long as it is not subdivided, you can sell a parcel a 4 acre lot if it has frontage.

Linda Marx spoke: All I'm going to say that if this is going to put more control on my land, I'm opposed to it.

Phil Thain spoke: I live on Fox Farm Hill Road in Farm and Forest. I am against this.

Harland Roberts spoke: I really believe this is over kill. I think what we have now demonstrates that it is working very well. Cluster development sounds good but there is a lot of acreage in Farm and Forest that you would not want to build it on. I think this 4 acre zoning works pretty well and it doesn't take away the flexibility of people that are land owners to see the proper effect of their land. As far as Cluster housing and to move it into the country where there is no water or sewer is not for Farm and Forest.

Donna Rand spoke: I just got off the phone with a gentleman on the Planning Board in Alfred and I asked him how their Cluster development works and he said that how they have it written in their Ordinance is not in Farm and Forest. They have it for in Town where there is water and sewer and electricity. He said we do not allow it in Farm and Forest because there is too much of a back lash for the contractors to put in suitable water, sewer and power. I wanted to put out that information to everyone that is sitting here.

I'm opposed to it.

Kondyleigh Provencher spoke: my concern is that the construction for these Clustering homes can be handled by the roads with the increase of traffic in Farm and Forest.

I'm opposed to it.

Jennifer Gordon spoke: I have been a resident of North Berwick all my life. We have purchased a piece of property for us to build and my parents and my brother. So you are able to build a home at this time on 4 acres. So if they were to increase this to 6 acres, so now you would be telling us we can't build, only two of you can build unless you Cluster it.

I'm opposed to it.

Lawrence Huntley, CEO explained that you would be able to do what you wanted to with their property because it would be divided for family it would stay at 4 acres.

Daniel Gillies spoke: people live in Farm and Forest because they enjoy the open space now you're telling us to Cluster and looked into the neighbor's windows.

I'm opposed to it.

Cheryl Hoffman spoke: how many Subdivisions have been built in Farm and Forest in the past five years. Not very many so were talking 0 to 3 in the past five years. I see that there may be a lot of confusion about what a Subdivision is. I have my land and if I wanted to give my son four acres. I can still do that is that correct.

Chairman Barry Chase answered yes.

Cheryl Hoffman spoke: if I have 100 acres and I wanted to sell 50 acres. I could do that and sell it to anybody that I want is that correct.

Chairman Barry Chase answered yes.

Cheryl Hoffman spoke: it sounds like for the most of the people in this room that this law would not affect their personal lives. I just want to clarify how many people this would affect and how would it change and how our land would look.

Lawrence Huntley, CEO replied: I think people are talking about how would look down the road. We're not talking about today were talking about what's going to happen five or 10 years from now and this particular thing will affect that there is no question. There will be Subdivisions in Farm and Forest.

Cheryl Hoffman spoke: you have to have three more houses built at the same time.

Chairman Barry Chase replied: it's not just houses. It is the way the land is split.

Cheryl Hoffman spoke: if the land is divided in three or more. That is a Subdivision, but if it's family you can still divide to property.
I'm for it and to let it go forward.

Todd Winship spoke: so you as Planning Board are going to be voting tonight whether to send it or not to Town. Meeting is that right, I'm taking a reading tonight and I'm thinking a lot of people are against this Ordinance. So if you vote in favor of it. I'm thinking you have reasons why because of the Town plan or personal reasons or being influenced in some way in feeling differently than what the people here are feeling here so when you go to vote, I will be questioning that because the people that came here tonight are opposed to it.
I'm definitely opposed to it.

Bob Cordon spoke: I just want to say that I am opposed to it.

Larry Litvinchyk spoke: I am opposed to anything that makes it tougher for the taxpayer that owns that land to do what he wants to do with it. If this Ordinance is going to make it tougher you need to vote no. Don't send it to the people.
I'm opposed to anything that makes it tougher for the land owner.

Joel Littlefield spoke: I think that this proposal will make it easier for people to sell their land. I have a Cluster development in Wells in the biggest issue is road cost. It doesn't matter. Nothing will change for me.

Deborah Briggs spoke: I would like to ask one question that when you vote tonight you will be voting on whether to present this Warrant as written or present nothing at all

Chairman Barry Chase replied: that's right.

Deborah Briggs spoke: if that is the case I have to say that I am opposed to it as written partly because I don't think that it is clearly written, but after hearing the comments tonight. I feel even though if it was clarified that is probably not the best solution for what I think is your goal to meet the demands of a Comprehensive Plan and I think that probably that goal is to preserve what we all enjoy seeing when we drive down the rural roads the open fields, but I believe we need to explore other ways to do that. I think that the Subdivision Ordinance as written is probably adequate. I think that this Cluster option has been on the record for over 20 years and I think we only have one Cluster Subdivision and it is one option. In my experience and like a lot of people said a lot about parcels here. They're not squared. They are compromised in shape and other factors, such as wetlands and ledges and environmentally protected areas, brooks and streams, setbacks. It is an option but there are times when it is not the best option. They're certain parcels where the front of the property that we see from the road is what we would like to see preserved as Open Space and that might not be with the Open Space ends up it might be the property outback. If it gets preserved and one sees it, it really hasn't accomplished that goal of preserving the viewshed that we see when we drive down the road. I believe that the Cluster option works well in some situations, but not all. I believe it is best to leave it the way that it is and just leave that as an option.

Chairman Barry Chase closed the Public Hearing on the density requirements for Minor and Major Subdivision in the Farm and Forests Zone at 8:13 p.m.

Shaun DeWolf spoke: I keep going over the numbers 4 acres versus 6 acres and it doesn't make sense. If you have 30 acre parcel of land and if you subdivided, you can get five lots with the new one. If you would subdivide now you would get seven lots you are just taking money out of the pocket of the land owners. As someone mentioned there is a time and a place for Cluster development. I don't think this justifies what we're trying to do.

Julie Fernee spoke: I think Mrs. Briggs had a very good point at the moment you have the choice of a 4 acre lot and you can do a Cluster development if you want to but there is no incentive to do so. What we were trying to do is have an incentive but if the Town doesn't like that we can leave it exactly as it is now they can have the Cluster. If they want and they stay with the 4 acre lots, obviously everybody feels that way here. We are not going to go against the Town.

Chairman Barry Chase spoke: I have said from the get-go on this that I want to hear what these people that are affected have to say about it. My gut feeling from the get go; I hated the whole thing. We kind of came up with compromise in my mind from keeping it from being proposed that it was 6 acres, no matter what and if that was going to be the case in my mind it was good to

have this option to keep the density and in trying keep some the value of your property. So everyone came to a compromise in their own thought process. I'm sure my thought process was a lot different than Rick's, Todd or Julie's or Shawn's but now, knowing that we came to this point we were going to take a vote and see which way it goes. I really think that what you guys say should be a lot more weighted. You are the ones that are affected myself living down on Oak Woods Road. I think my say should be a little bit less because it's really not affecting my property so that's my feeling on it.

Rick Reynolds spoke: I think this is a very good way to discourage building in Farm and Forest and I'm going keep it that way right now. If someone has 4 acres they can do whatever they want with it. My opinion is that someone is going to have to decide on what the future is going to be if you want this not to happen then go vote. That is your option. The option is if you don't want this to happen. Get your neighbors to go vote because the Town of North Berwick has very poor percentage of voters, even for Town Meeting. If you want your voices to be heard, they should be heard at the ballot box. I think we should go ahead and see what the Town votes and the reason to have the whole Town vote on it is because of Comprehensive Plan. We didn't even have any of the people volunteering to help, the few people that did, did most of the work. That was the time to make your opinions known. If you really want to have an effect on the Town you need to get personally involved in the Town. We would love to have people like you come to our Comprehensive Plan to give us your opinion, what happens three people show up and all of our meetings were open to the public. We could've gone and been part of it to draw the conclusions. The Town is part of the State of Maine, the State of Maine sets precedents in what they would like to see as a goal and the goal should be done.

I would like to make the motion to approve that article 5.2.a. and, 5.2.11 and we can vote on it here and see how we feel about it on the Board to proceed and my opinion is to have the options of the future were talking about our children and our grandchildren.

Shaun DeWolf asked the audience for show of hands that live downtown at this meeting (1)
Let the people that live in Farm and Forest move this forward or not.

*Rick Reynolds moved to send the proposed Farm and Forest Zoning Ordinance to Town Warrant, Julie Fernee seconded a motion. Vote, 3-1 (denied)
(The proposed change concerning the Farm and Forest Subdivision Ordinance will not go to Town Warrant)*

3. Preview Next Agenda

4. Other Business:

5. Review Previous Minutes:

Rick Reynolds moved to approve the minutes of December 22, 2012 as corrected, Shaun DeWolf seconded a motion. Vote, 4-0

Shaun DeWolf moved to approve the minutes of January 12, 2012, Chairman Barry Chase seconded a motion. Vote, 4-0

6. Adjournment:

Shaun DeWolf moved to adjourn at 9:00 p.m., Rick Reynolds seconded a motion. Vote, 4-0

Lawrence Huntley, CEO
Planning Coordinator

Respectively Submitted
Anita Merrow, Stenographer

Chairman Barry Chase

Julie Fernee

Shaun DeWolf

Mark Cahoon

Rick Reynolds

Chairman Barry Chase
Julie Fernee
Shaun DeWolf
Mark Cahoon
Rick Reynolds
CEO
Town Manager
Post Inside/Outside
File