

**NORTH BERWICK, MAINE, 03906**

**MINUTES OF PLANNING BOARD NOVEMBER 8, 2012**

**Present:** Chairman Barry Chase, Julie Fernee, Rick Reynolds, Mark Cahoon and Lawrence Huntley, CEO.

**Absent:** Shaun DeWolf,

**Also Present:** Larry LeBlance, Jude Filippone, Jason Pohopek, Lionel Ewers, Pamela Ewers, Lendell and Stephen Quint.

**1. Call To Order:**

Chairman Barry Chase opened the Planning Board Meeting at 6:33 p.m.

**2. Current Business:**

**A. Jude Filippone---**Applicant proposes to add an accessory structure to a Conditional Use (50' x 150' Storage Barn) 8 Fox Farm Hill Road. (Continued from Oct. 25, 2012)

Chairman Barry Chase explained that the Board conducted a site walk at 8 Fox Farm Hill Road. The Board suggested a better location for the storage barn for neighbors.

The Board received a letter from the Town Attorney.

Chairman Barry Chase read into the record a letter from the Town Attorney, Bill Plouffe:

Dear Larry,

The owner of Fox Farm Hill Estates has approached the Planning Board with a proposal to construct an outbuilding with a footprint of 7,500 sq. ft. on the site of Fox Farm Hill Estates, an apartment complex on approximately 42 acres. The apartment complex has subdivision approval and an amendment to that approval is needed for the proposed building. The apartment use is a conditional use in the zoning district. The required density ratio for the project "takes up" the entire 42 acres. The proposed use of the outbuilding is for storage. The central question revolves around what will be stored in the outbuilding and how that affects the "legality" of the proposed building.

If the outbuilding is used by tenants of the Fox Farm Hill apartments to store their belongings then I would categorize the building and the use as accessory to the apartment use. Structure and uses accessory to permitted uses are allowed in the Farm/Forest District in which Fox Farm is located.

It is my understanding that the owner of Fox Farm Hill Estates operates a business in Sanford that deals in used ATV's, snowmobiles, cars, etc. Apparently, some neighbors are concerned that the proposed building will be used to store inventory for that business. I also understand that the owner has some number of "collector cars" and that he has stated that he plans to store those collector cars in the proposed building.

If the proposed outbuilding is intended for uses other than storage of the belongings of the tenants at Fox Farm Hill then I would not categorize the building as "accessory" because the use is not "incidental" to the primary use of the site, i.e., and apartment complex. So for example, it cannot be intended for use as a place for business inventory storage nor can be intended for use as a storage facility or display area for the applicant's collector cars. (I understand that the applicant is not a tenant at Fox Farm Hill Estates.)

I also note that storage of inventory would be commercial use of the building that is not allowed in the Farm/Forest district. If snowmobiles, cars, etc., are being held for re-sale by the Sanford business then they are stock in trade and the outbuilding becomes a warehouse. The fact that the titles to the items may be in the name of the owner individually rather than in the name of his business does not change the reality that they are held for re-sale in the business.

I think that it is very important for you and the Planning Board to get very specific, on the record information from the applicant about the intended use of the building. For example, you should be told: What will be stored in the building and by whom; how many square feet of the building will be devoted to what storage? If an approval is granted, then explicit conditions of approval can be put in the Board's decision limiting the use in accordance with the representations made in response to these questions. If the answers to the questions demonstrate that the building is not truly accessory to the apartment use (see above discussion), then the applicant can be denied based upon specific facts.

William Plouffe

Chairman Barry Chase wanted to note for the record is that Rick Reynolds does not have to recuse himself from the Board because he lives 500 feet from the applicant because he has no financial gain or any involvement in it.

Jude Filippone asked if he brings up property value he has no financial gain.

Lawrence Huntley, CEO replied that according to the articles of the State and notes that is not a question of financial gain.

Rick Reynolds spoke: that in the attorney's letter it states what items would be banned from being in the building, as what he intends to use the building for, as to what the lawyer said he could store in the building.

Chairman Barry Chase explained that what it is basically saying is that Jude is not a tenant there so he can't store any of his personal things in there.

Lawrence Huntley, CEO explained that the problem with this whole thing is that it is a conditional use approved by the Planning Board and in order to have an accessory structure it has to be subordinate to that use. It has nothing to do with Mr. Filippone owning it or owning a business.

Chairman Barry Chase explained to Mr. Filippone that if we are going to be able to approve this you will have to tell the Board that you will not be storing personal item in the building.

Lawrence Huntley, CEO spoke: that the main purpose for that structure is to be used by the apartment tenants.

Jude Filippone replied what do want me to do draw a 10' line for myself and 140 for the tenants.

Lawrence Huntley, CEO spoke: what I need from you is a straight answer. I need to go by the Zoning Ordinance rules as it is written.

Jude Filippone replied I don't know what will be in there it changes all the time. I can't give you a straight answer.

Lawrence Huntley, CEO spoke: then it isn't an accessory use if you can't give me a straight answer.

Chairman Barry Chase asked Mr. Filippone that for the record will you state that there will be no warehouse of Motorhead property.

Jude Filippone replied no there will not be Motorhead property store in the storage building.

Jude Filippone stated that he will rent an apartment and become a tenant at Fox Farm Estates.

Chairman Barry Chase read into the record:

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#### **6.9.6 Factors Applicable to Conditional Use**

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#### **6.9.7 Conditions Attached to Conditional Use**

Conditions:

1. Building use will be for storage of property maintenance equipment and tenant storage of their personal property.
2. Building shall be located as per site walk to be verified by CEO.
3. Style of building shall be traditional barn like structure with traditional gables soffits and eaves.
4. Exterior lighting security light overhead door and man door lighting to be directed down. <sup>eyes.</sup>
5. No plumbing.
6. Activity at the property must conform to noise ordinance – 7 a.m. to 8 p.m.
7. Copy of lease that applicant is a tenant for him to be allowed to store his storage.
8. Must have a concrete floor in building.

Mark Cahoon moved to accept the Conditional Use Permit with eight conditions as stated, Rick Reynolds seconded a motion. Vote, 4-0

**B. Lendell & Stephen Quint**---Applicant proposes a Mineral Extraction at 531 Morrells Mill Road (Map 8, Lot 89)

Jason Pohopek explained that he is here tonight representing the Quint's in their application and to date we have made multiple revisions, also have gone out for third party review.

We are submitting new revised Plans tonight.

- The new grading plan of the pit.
- Added generic notes of construction detail sheet that would be attached to this permit for general excavation practices.
- Note on Hall Road cross section.
- Identified hot top by DOT.
- Site Plan: standard construction of pit operation reviewed by our engineers, requested by your town authorities and our standard procedures of any mineral extraction in the area.

Condition:

1. Secure Bond at \$6,000.00 per acre.

Rick Reynolds moved to accept the application on the proposed Mineral Extraction at 531 Morrells Mill Road, Map 8, Lot 89 for Lendell and Stephen Quint with the condition of the payment of the Town Bond, Mark Cahoon seconded a motion. Vote, 4-0

**C. Cumberland Farms**---Applicant proposes to change an accessory structure of a conditional use. (Gas price sign to LED)

Chairman Barry Chase announced to the public that Cumberland Farms has withdrawn their application and will not be here this evening.

**3. Preview Next Agenda**

**4. Other Business:**

**5. Review Previous Minutes:**

Rick Reynolds moved to approve the minutes of October 25, 2012 as corrected, Mark Cahoon seconded a motion. Vote, 4-0 in favor

6. Adjournment:

Rick Reynolds moved to adjourn at 8:30 p.m., Mark Cahoon seconded a motion.  
Vote, 4-0

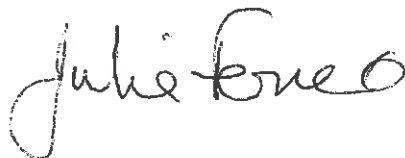
Lawrence Huntley, CEO  
Planning Coordinator

Respectively Submitted  
Anita Merrow, Stenographer

Chairman Barry Chase



Julie Fernee



Shaun DeWolf

Mark Cahoon



Rick Reynolds



Geoffrey Aleva

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