

NORTH BERWICK PLANNING BOARD

MINUTES OF PLANNING BOARD JULY 23, 2020

Present: Chairman Geoffrey Aleva, Anne Whitten, Jon Morse, David Ballard, Roger Frechette, CEO

Absent: Matthew Qualls, Scott Strynar

Also Present: Lee Jay Feldman from SMPDC, Scott Anderson, Dana Libby, Jean Stover, Susan Roy, Chuck Brutton Messo, Jason ?

1. Call To Order:

Chairman Geoffrey Aleva called the meeting to order at 6:32 pm.

2. Review Previous Minutes:

Jon Morse stated that on page 2, the 1st sentence of the 3rd paragraph currently reads, “Chairman Aleva stated that the had the peer review...”. It should read, “Chairman Aleva stated that they had the peer review...”. Anne Whitten stated that on page 3, the 1st sentence of the last paragraph currently reads, “Mr. Canavan stated that they will have an overheard utility...”. It should read, “Mr. Canavan stated that they will have an overhead utility...”. Also, the next sentence currently reads, “...poles there and it will be tie into the existing...”. It should read, “...poles there and it will tie into the existing...”. She also stated that the last line in the same paragraph should be more specific. It currently reads, “There will be some internal for the site.”. It should read, “There will be some internal poles for the site.”.

Anne Whitten motioned to approve the minutes of July 9, 2020 as amended. Jon Morse seconded the motion. VOTE: 4-0

3. Current Business:

3.1 Public Hearing
Sugarbush Estates, Beech Ridge Rd.
(Map 007 Lot 019)

Request: Applicant proposes a two-lot Subdivision to be located on Beech Ridge Road (Map 007 Lot 019) Owned by Harold D. & Joan M. Shaw

Chairman Aleva stated that the Board did have a site walk today at 5:00. They walked down Beech Ridge Road. They saw where the lot corners for the proposed 13-acre lot was going to be

placed. Chairman Aleva asked Roger Frechette if he had any comments or concerns with the project. Roger said that, when they submitted their plan, they didn't give him the full view of the original property. He stated that Lee Jay Feldman has to review those. He stated that some of the Findings of Facts will need to be changed after the review.

Dana Libby from Corner Post Land Surveying stated that he is representing the Shaw's for the project. They are proposing to subdivide 119 acres into 2 lots. He stated that 12 acres of the parcel will be deeded to the abutters, Robert and Susan Roy. There will be a 13-acre lot that the Shaw's are planning on selling so this will leave around 95 acres left. The property is located on the east side of Beech Ridge Road at the end of the paved area. It will be served by overhead utilities and on-site septic and well. The wetlands have been mapped and are shown on the plan. The soil tests will be done next week. He stated that Lee Jay Feldman had a comment regarding supplying a letter from Stone Hill. He said that they did not supply a letter from Stone Hill, but they did supply the Maine GIS data for local wells for this area which should satisfy that standard. Mr. Libby stated that they did not have the site distance on the plan for the driveway. They will measure that at the beginning of the week and there should be no issues with the site distance on this property.

Chairman Aleva opened the Public Hearing at 6:42 pm. There was no public comment at this time. Chairman Aleva closed the Public Hearing at 6:43 pm.

Chairman Aleva asked Lee Jay Feldman to go over his comments. He stated that he has had a couple of conversations with Mr. Libby and his memo started to reflect that. However, the plan that the Board received today has changed. He stated that he sought out an opinion from their legal advisor to get her thoughts. For legal purposes, to go to the Planning Board, there is no such thing as a 2-lot subdivision. He stated that 3 lots are considered a subdivision. Mr. Feldman stated that part of the issue is that they have the 11.91 acres that is proposed to be sold or deeded over to the Roy's but has not been done yet. This could be considered sale of land to an abutter and this does not count towards the subdivision. However, the Roy parcel was created in 2016 which is less than 5 years. In order for a lot not to be counted as part of a subdivision it has to basically be 5 years and 1 day. Mr. Feldman stated that there needs to be some clarification as to what Lot 1 would be. In his estimation, it would either be the Roy parcel as it stands or the Roy parcel combined with the other land, however that land has not been turned over to the Roy's yet so it is still a stand alone parcel. If that sale doesn't go through for some reason, then the Shaw's have another parcel that they can sell. He stated that there needs to be the transaction occurring before this project gets approved, so clarification is needed on that. This is new comment because the plan didn't reflect that when we first got it.

Mr. Feldman stated that the 13.9 acres is clearly a lot. He said that there are a couple issues with the remaining 94 acres. It is a lot in the subdivision even though it is remaining land of Shaw because it was part of another parcel. It needs to be shown in whole on a plan. It can't be shown in part. The town does not use the wording in the State Law that allows for exempting lots of over 40 acres in size. Even though it is 94 acres, it needs to be shown as a complete lot in this

subdivision. Mr. Feldman stated that there are several issues regarding numbering and visual aspect of the plan.

Mr. Feldman stated that they did ask for several waivers in their application. The waivers do not show up on the plan. The signature block on the left-hand side has 1 waiver noted. If the Board acts on remaining waivers, the plan will need to be updated to reflect the other waiver requests. He stated that he has no issues with the waivers that they are requesting if the Board chooses to approve them. Mr. Feldman stated that he also has to update the Finding of Facts.

Chairman Aleva asked Dana Libby to make any comments at this point. Mr. Libby addressed the issue with numbering. He asked Mr. Feldman to look at MRSA 30-A under definitions of subdivisions in Section B. There is a paragraph that talks about issues like the Roy situation. Mr. Feldman stated that he had looked at it, but he disagrees with Mr. Libby about it relating to this issue. He believes that this issue is more related to Section A. This is why he has asked their attorney for an interpretation. Mr. Libby stated that Section B states, "Any divisions that happen prior to a subdivision at application, the Planning Board does have to know that that lot was there, and the applicant has to show it. Mr. Libby stated that they have done this. It specifically says, "The reviewing authority shall consider the existence of the previous created lot or lots in reviewing the proposed creation by a subsequent division." Mr. Feldman stated that he would concur with this if had been 5 years and 1 day, but it is not. It is still within the 5-year period that the lot was created. Mr. Libby stated that on a previous subdivision that he did, Patco Company had bought 2 parcels from 1 person and then subdivided 1 of them. The parcel was shown on a plan but not numbered. He stated that they did that for both sides. He believes this is the same type of thing.

Regarding the overall plan, Mr. Libby stated that they have revised all of the plans. They have included the sheet that shows all of the 95 acres. He stated that the soil test will be happening this coming week. He stated that the Shaw's did sign a Purchase & Sales Agreement with Mr. & Mrs. Roy last night. They will supply the town with a copy of that.

Chairman Aleva asked Mr. Libby to tell the Board about the waivers they were requesting. Mr. Libby stated that they are requesting a waiver for underground utilities, one to allow concrete monuments instead of granite and one regarding the drainage. Lee Jay stated that Underwood Engineering has looked at this plan and they had no issues or concerns with the project. He said that stormwater is not an issue.

Jon Morse asked if they were dealing with a 2 lot or 3 lot subdivision. Chairman Aleva said that this is what the question is all about. Mr. Feldman stated that he is hoping to get an opinion from the attorney by the next meeting.

Chairman Aleva stated that they needed to make a decision on the waivers. The first waiver is regarding Article 10.5.A which states, "Utilities shall be installed underground except otherwise approved by the Board." He stated that he had no issues with this waiver being granted.

Jon Morse motioned to grant the waiver for Article 10.5.A and allow overhead utilities. David Ballard seconded the motion. VOTE: 3-0 Abstain: 1

Chairman Aleva stated that the next waiver is regarding Article 10.6.A about monuments. The applicant is requesting a waiver to allow concrete monument to be installed instead of granite. This is based on the fact that concrete monuments can be found with a metal detector because of the rebar in the concrete. Mr. Libby stated that three of the corners ended up being drill holes in rock so the only corner that is not a drill hole is the northeast corner of the lot. If the Board has no objection, they would like to just leave the iron rod. Chairman Aleva stated that he doesn't believe there is a requirement for stone on the back corners on lots, so this waiver goes away. They do not need to act on it.

Chairman Aleva stated that the last waiver is regarding Article 10.6.D sections 3 and 4 for Surface Drainage. The proposal is for 2 house lots with no road construction and it will not alter the course of any drainage area. He stated that our peer review engineers have recommended approval of the waiver.

Anne Whitten motioned to approve the waiver for Article 10.6.D Sections 3 and 4 regarding the drainage. Jon Morse seconded the motion. VOTE: 4-0

Jon Morse motioned to table the project until the next available meeting. Anne Whitten seconded the motion. VOTE: 4-0

3.2 Continued review of a Conditional Use application submitted by
TPE ME NB11, LLC, 30 Coffin Lane
Tax Map: 001 Lot: 037B

Request: The applicant proposes to install an 18.2-acre Solar Array on the 60.8-acre parcel of land owned by Richard W. Crispin

Chairman Aleva stated that the applicant is still working on getting their information together so this will be tabled for tonight.

3.3 Public Meeting
Town of North Berwick, 21 Main Street
(Map 018 Lot 090)

Request: Verizon Wireless proposes to install an antenna and related equipment to be located on the roof top of Town Hall located at 21 Main St.

Chairman Aleva asked Roger if he had any comments or concerns regarding the project. Roger stated that they are putting antennas on the chimney and they will have a service room on the 3rd

floor of the building. He doesn't see any issues with the project. He said that they will have to establish an escrow of \$2,500.00.

Scott Anderson from Verizon Wireless stated that he was present with Chuck Brutton Messo. He said that they work together on sightings for projects in the State of Maine. He stated that it is a straightforward project. They will be putting 6 antennas in 3 different mounts on top of one of the existing chimneys on the Town Hall building. The equipment will be installed on the 3rd floor inside Town Hall. Other than the antennas that are mounted on the chimney, you will not be able to see the site. There will be no ground or surface impacts around the building. There will be no parking or traffic needs. The site will get visited occasionally by a Verizon Wireless technician that will be during the day. There will be no noise, no dust, no garbage, and no water use. The town will get a little bit of revenue from the lease and residents will get better cell phone service. He stated that there will be minor impacts on installations. They like using places like town halls, churches, and fire stations for these sites because it allows them to improve service where the people are. It is better than building a tower next to the building.

Jon Morse asked if the chimney that they are adding the antennas to a working chimney. Roger said that he does not believe it is. Chuck Brutton Messo stated that it is an inactive chimney. Mr. Morse asked if they had done an inspection of the chimney yet to make sure that it is stable for the project. Roger stated that they had not done it yet. Chairman Aleva asked the applicant at what point do they have someone come inspect to make sure that the chimney is stable enough for the project. Scott Anderson thinks that there has been a structural assessment done of the chimney. He will locate the report and get it to Roger.

David Ballard asked if they were going to have to climb up there. Mr. Anderson stated that they will be using temporary staging to install the antennas on the facility. If they ever needed to come back to perform some kind of service, they would set up temporary staging at that time as well. Jon Morse asked if there was any damage done to the roof during the construction would they be responsible for fixing it. Mr. Anderson said that it is pretty standard to have it stated in the lease as to how any damages would be taken care of. They will fix whatever they break.

Anne Whitten stated that, on the application permit under the section that mentions the number of stories, they have N/A listed. She asked if it should have a number listed because it is an existing number of stories. Mr. Anderson stated that he was interpreting it as if they were going to add stories, they would need to list how many existed and how many they were planning on adding. Since they are not doing any structural change to the outside of the building, he put N/A. He stated that they can always change it and add a number. Chairman Aleva stated that it should read that it is a 4-story building.

Anne Whitten stated that they are going to be leasing an office space in the building and wanted to know more about that. Mr. Anderson said that the antennas are connected by cables and the equipment that sends and transmits the cell phone signals, a box and different equipment that makes the system run will need to be located inside. The best thing is to find some space inside

the structure, so they have leased a portion of the 3rd floor to install this equipment. Mrs. Whitten asked what they would do if they needed to get into the building to access their equipment when the building is locked up. Chuck Brutton Messo stated that they will have an access easement agreement created. If the system goes down after hours, they will have a file that would give them access to the building at that time. The town would be able to tell that a Verizon employee went into the building at that time.

David Ballard asked how much of an increase in signal and coverage are people going to have? Mr. Anderson stated that it is a capacity site. They are putting antennas in that are going to make the entire system in this area work better by offloading what some of the adjacent towers and antennas are now doing for service. This will strengthen what is there and improve the service from each one of the existing sites that are in close capacity to this area. Mr. Ballard stated that if the site goes down, it is not a need to fix now. It would be an enhance to service so it would be a lesser priority to get it fixed.

Chairman Aleva asked if the equipment that is located in the room on the 3rd floor will generate any heat. Is there a need to install air cooling in that room for the equipment? Mr. Anderson stated that the older systems were a little bit more finicky with heating and cooling. He stated that when the engineers reviewed the site and talked to the town about where the equipment was going to go, they would have figured out what the temperature will be like in there. He believes that it will be cool enough in the summer and warm enough in the winter and is sure that the engineers have already figured it all out.

Anne Whitten motioned to waive the site walk requirement for this project. Jon Morse seconded the motion. VOTE: 4-0

Anne Whitten motioned to establish an escrow of \$2,500.00. Jon Morse seconded the motion. VOTE: 4-0

4. Other Business:

Chairman Aleva stated that they also had a site walk for the Cardinal Way Apartments today. It was pretty straightforward. He told the members that were not on the site walk that they could drive by anytime to see it. They staked it out really well, so it is easy to see.

Roger stated that the Cardinal Way Apartments will be at the next meeting. Also, the solar project is hoping to be ready to come back then too. Sugarbush Estates should be back then too. He stated that there will also be someone to discuss adding an in-law apartment.

5. Adjournment:

Jon Morse motioned to adjourn the meeting at 7:20 pm. Anne Whitten seconded the motion. VOTE: 4-0

Roger Frechette
Planning Coordinator

Respectively submitted,
Susan Niehoff, Stenographer

Chairman Geoffrey Aleva

Approved at August 13, 2020 ZOOM meeting

Jon Morse

Anne Whitten

Approved at August 13, 2020 ZOOM meeting

Matthew Qualls

David Ballard

Approved at August 13, 2020 ZOOM meeting

Scott Strynar

Approved at August 13, 2020 ZOOM meeting