

NORTH BERWICK PLANNING BOARD

MINUTES OF PLANNING BOARD AUGUST 12, 2021

Present: Chairman Geoffrey Aleva, Jon Morse, David Ballard, Scott Strynar, Mark Cahoon, Matt LeConte, CEO

Absent: Anne Whitten

Also Present: Lee Jay Feldman from SMPDC, Chris Mende, Chris Piecuch, Brandon Piecuch, Jamal Erraies, Jorge Rivera, Ben Fairfield, Chris Hagan, Jacob Doyon, Brian Sullivan

1. Call to Order:

Chairman Geoffrey Aleva called the meeting to order at 6:30 pm.

2. Review Previous Minutes:

Jon Morse motioned to approve the minutes of July 8, 2021 as written. Mark Cahoon seconded the motion. Vote: 5-0

3. Current Business:

3.1 Public Hearing – MS Select Properties – Now Gordon Cedar (Tenant: Christopher Piecuch DBA Therapeutic Roots, LLC
42 Market Street (Map 018 Lot 027-1

Request: Applicant is proposing a Medical Marijuana Counseling Office at 42 Market Street. Pursuant to the Town of North Berwick Zoning Ordinance, Article 4.2 Land Uses (table) and 5.2.1.G, a Conditional Use Permit shall be obtained for this type of use in Commercial Zone.

Chairman Aleva moved Mark Cahoon up to full voting status for tonight's meeting. Chairman Aleva also asked Scott Strynar if he felt comfortable after reading the notes from the last meeting about the project because he was not at the last meeting. Mr. Strynar said that he had reviewed everything and felt comfortable with everything. He also had done the site walk.

Chairman Aleva asked the CEO, Matt LeConte if he had any concerns regarding the project. Mr. LeConte said that they did receive a verbal concern from an abutter regarding parking. In the past, there has been some debate on who owns the right of way. Mr. LeConte stated that it is very clear that the ownership of the right of way doesn't lie with 40 Market Street, but it does lie with 42 Market Street. There was a parking claim that was put in place, however both Dwayne

and Mr. LeConte couldn't seem to find it. It stated that the tenants of the building would pull into the right of way off of Market Street. The space behind the building is currently marked out with white hashmarks to pull into, back into the right of way and then pull into the parking spaces. Mr. LeConte stated that it seems like the parking consideration of the abutting property owner is alleviated. He said that Scott Strynar had mentioned at the site walk to maybe labeling each of the parking spaces per unit so that any of the applicant's patients or customers would not use any of the occupant's parking spaces. One of the spaces will be for their Manager or onsite personnel and 2 of the 4 will be for the residential tenants.

The applicant, Christopher Piecuch stepped forward to discuss the project. The name of the business is Therapeutic Roots, LLC and the project is basically for a caregiver office. They will take in Medical Marijuana patients through the front door and have an assistant up front that will welcome them in. The assistant will then bring them out back to meet with Mr. Piecuch in an office area to discuss the use of marijuana and the proper way to help them treat their ailments. At the conclusion of the discussion, the patient will then decide if they want to make a purchase or not.

Chairman Aleva opened the Public Hearing at 6:35 pm.

Ben Fairfield stated that he owns the house at the end of Snow's Court. He stated that it is great to bring business to North Berwick, but his concern is the parking. He said that they have a lot of issues on that road. They had a truck with a ramp parked there today and it almost completely blocked up the road. He wanted to clarify that 2 of the 4 parking spaces were going to the tenants and the other 2 were going to the 2 employees. Mr. Piecuch said that this was correct. Mr. Fairfield stated that he doesn't want people coming in and turning around in his parking lot.

Brian Sullivan owns 40 Market Street and shares the road with the property. He said that, a little while ago, they changed the parking situation. They took out a 100 year old tree in order to expand the apartments. He said that the Planning Board had apparently denied the owner the ability to put another apartment in because of sprinklers or something like that. They went ahead and put in parking spaces, but they put the lines for the spaces in a way that you are forced to drive on the right of way of Snows Court, turn around in his parking lot and come back and park. He said that people can't turn around or do a 3-point turn. He said that they sometimes even go to the end of the street and turn around in that person's driveway to come back and park. He said that there are children there and some of them are disabled. They are playing in the streets and there are cars going up and down to turn around to park. He stated that it is affecting his business, his livelihood, and his rights as a property owner to enjoy it quietly. He said that whoever came up with this scheme for the parking made a very big mistake and someone will end up getting hurt. He said that it should never have been allowed.

Mr. Sullivan stated that when he bought his property in 2007, the Planning Board had to approve it for his business. He has a custom carpentry business, but they have no customers or retail. They have about 10 people a year come in and look at their sunrooms. He had to meet with the

Planning Board and neighbors at his property to prove to them that he had enough parking for his business. He said that he has parking for 10 cars in the back of his place. He said that there is no off-street parking for this new business and there are other offices in the area so where is everyone going to park. He said that there is only a couple of spaces in front of the pizza place, and he can't even park in front of his business because the city came and striped it out. Mr. Sullivan stated that, pre-pandemic, during noon time the street is a horror show. Police cars are parked anywhere they can find a parking space. Cars are parked in front of his driveway so if there is a fire or something, he would have no idea and where to find these people. He stated that it is a safety hazard. He said that if a child or someone gets hurt, he believes that this Board and town are to be held liable.

Ben Fairfield said that if the 2 spaces will be taken up by people running the office, where are the patients going to park. He asked if they were going to be parking on Snows Court, out front or somewhere around Johnson's where there is a little bit more parking. Brian Sullivan stated that if people do come down and park in one of his 10 spaces, he has to call the Police and has to pay for it to be towed. He said that he will now be a referee of traffic in his own yard. He said that if the Board approves this, he will put up a steel fence in his driveway and no one will be able to turn around there again. Chris Piecuch stated that their parking plan is to just have the employee parking in the 2 spots. He said that there are 38 town spots between Cumberland Farms and the triangle area that their patients can use.

Chairman Aleva asked the applicant if they were proposing to have any signage and if so, what would they say? Mr. Piecuch said that they could put up whatever signs the Board would like them to. Mr. LeConte brought up the map of the area that they are talking about on the computer. He stated that he was not here when the original application was approved. However, it is his understanding that the right of way or private way is to be used by anyone on either side and the residents at the end of the street. He said that cars are to come in, pull into the striped area to turn around and back out on a public way and not the private way and then pull into each of the parking spaces. He said that the striped area was specifically striped like that so it could be used for this purpose and not as a parking space. According to the Town Manager, this is how it was approved when the prior business was opened, and the tenant spaces were created. Mr. LeConte stated that, in regard to where the patients will park, the Town Ordinance allows for parking on public streets. There are a number of parking spaces around the area. He said that this business is not intended to be a storefront so it will be scheduled patients arriving. It will not be like the pizza place where it would be a rush hour at noon.

Chairman Aleva asked Mr. Piecuch how his patients find him. Mr. Piecuch said that they find him by referrals, and they will have a website up. There are also other websites that recommend them. Chairman Aleva said that he thinks it is important to have signs for the 4 spaces that state that there is no parking for customers there. He said that they applicant should also direct their customers to park in the public spaces. Scott Strynar said that they could put a sign up at the beginning of the road stating that they cannot access parking in that area. David Ballard asked if this road was the only access to the private home in the back. The applicant said that it was.

Chairman Aleva said that there should definitely be some signage on the building for the spaces. Mark Cahoon said that the applicant should also be in charge of policing where the patients are parking. When they come into the office, they should find out where they parked and make sure they have parked in a place that is okay.

Brian Sullivan asked the Planning Board if they had been down to the site. Some members said that they had, and the others all said that they were familiar with the area. Mr. Sullivan requested that they schedule a meeting on the property so that they can all review it and discuss the area there. Chairman Aleva stated that they have already done a site walk. Mr. Sullivan stated that the parking lot right now is full. He asked if the Planning Board was going to tell them that they need to get rid of some of their cars. Mr. Piecuch stated that it would be a landlord issue as to which tenant gets what spot. It is not really up to the Planning Board to decide which spot belongs to each of the tenants in the building. The town requires that at least 1 parking space is provided for each use which is being done. As to who gets which space and how many spaces is up to the landlord to decide. Jon Morse stated that they can have the landlord mark the spaces stating who can park there. David Ballard said that they can only add a conditional use for spaces relating to the tenants and not the customers.

Ben Fairfield had another concern regarding the wintertime. He deals with the plowing and the turnaround always gets filled with snow. His plow guy only deals with the road and not that area. He would like to have them add a condition that the landlord needs to plow out the turnaround. Chris Piecuch stated that it should get plowed because there is an entrance for the downstairs in that area.

Brian Sullivan asked if the Planning Board can make a condition that the cars that are parked where they shouldn't be get towed at the owner's expense. Chairman Aleva said that they can call the Police and have them towed if they are trespassing on one of the neighbor's property. Mr. Feldman asked if they would have to pay to have it towed. Chairman Aleva stated that it is typically the person that owns the car that pays. Lee Jay Feldman said that the car will get towed to an impound lot and the owner would have to pay for everything to get the car back.

Chairman Aleva closed the Public Hearing at 7:00 pm.

Lee Jay Feldman said that there are a number of things that need to be crafted or recrafted for conditions of approval so he is suggesting that they table the application so he can come back with some clear language for the Board. Mark Cahoon agreed and would like to have the landlord come back with the applicant so he can hear everything that has been discussed.

Chairman Aleva said that the Findings of Fact go over standard conditions that the Board has applied to other similar projects in the past relating to alarm systems, lighting, security, and other items like that. The Board does have some additional conditions with the video security surveillance like they had asked the applicant in the other application that he had filed a few years ago. He said that they have discussed parking tonight, having a condition regarding snow

removal and for signage for the parking. They also discussed ways in which they can deal with trespassing down through the private way to help alleviate issues with the abutters as best as the Board can. Scott Strynar asked if they had talked to the Police Chief about the parking situation and what some of his suggestions would be in dealing with the parking and trespassing. He wondered if the Police could put a boot on the car instead of having it towed. David Ballard said that they can have a car towed as long as there is proper signage stating that it will be towed.

Scott Strynar motioned to table the Conditional Use Permit for 42 Market Street until the Findings of Fact have been updated at the next available meeting. Jon seconded the motion.
VOTE: 5-0

3.2 Hagan Subdivision – Continued Pre-Application Review of Major Subdivision Somersworth Road (Map 001 Lot 070A)

Pre-Application Review: The Applicant is proposing a 7-lot subdivision on Somersworth Road (5 of the lots are proposed to be for duplex dwellings (2 per lot), 1 lot for public dedication and 1 lot for owner's existing home). The applicant is proposing to build duplexes on 5 of the lots as well as construct a cul-de-sac road to achieve the required road frontage for each lot. The road is proposed to remain in private ownership held by a homeowner's association. They are proposing to dedicate 5.9 acres to the Town due to the Town's Maple Street Forest and Trail System abuts this proposed project.

Chairman Aleva recused himself from this project because he is employed by Civil Consultants, and they are the ones that are working on this project. Vice Chairman Jon Morse will be the Acting Chairman for this project.

Chris Mende from Civil Consultants stepped forward to discuss the project. He said that there is one correction to point out from the above description. He said that the number of lots is correct. Because of density issues, they have had to go from 5 lots with duplexes to 4 duplex lots and 1 single family lot.

Mr. Mende said that the last time he was before the Board the schematic of the proposed vision didn't look much differently than it does currently. They did high intensity soils mapping on the site as well as wetland mapping. The work they had done before was based on medium intensity. They did find some additional wetlands on the site, and they found that the soils were not as good as what they thought they were when they used the medium intensity mapping. This caused them to do some reconfiguration of the lots in order to meet the density requirements after making deductions for the soils and wetlands.

Mr. Mende stated that everything else is pretty much the same as before. They found adequate soils on all of the lots to support septic systems. There are test pit logs in the application materials, but they do not have the designs yet. They have also submitted a wetlands report and the boundary of the wetlands are delineated on the plan as well as the soils boundaries. Mr.

Mende said that, originally when the property was divided by Linda Dutch several years ago, she had obtained a driveway permit. Because of wetland crossing issues and trying to minimize the impact of the wetland crossing, they are moving the driveway a little more easterly. They have been in touch with DOT about that and it doesn't look like it will be a problem with relocating the driveway. Mr. Mende said that it is actually a better location especially regarding site distance. They have filed an application with DOT but have not heard back from them yet.

Mr. Mende said that the 2 biggest issues that they are working on now are the drainage and wetland crossing applications. They will be filing a Tier 1 application because of the size of the impact on the wetlands. It is a little bit bigger than the Permit by Rule standard. They are currently filing this with DEP and the Army Corps of Engineers. They are also putting together an application for stormwater management on the site. Mr. Mende stated that it reaches the threshold of review by the DEP because of the common development of the lots.

Mr. Mende stated that he spoke with Chris Hagan's attorney today about beginning to complete condominium documents for this project. Because of the nature of the duplex houses, the probable scheme is that there will be a duplex house on 4 of the lots. Half of each of those houses will be the units in the condominiums and then, either the entire lot or portions of the lot will be limited common areas for use by the owners of the 2 units. The road will be common area for the entire division. Mr. Mende stated that Chris Hagan has retained land with his house, and it will not be part of the condominium and it will just be a separate lot. He said that regarding the individual lot, they could go either way, but it probably makes sense to include it in the condominium so that they have obligations to maintain roads and share in some costs.

Mr. Mende stated that they are looking to have a waiver regarding underground utilities. Acting Chairman asked what the reason was for the request for a waiver on the underground utilities. Mr. Mende said that it was primarily due to cost. Matt LeConte stated that he spoke with the Town Manager today and he doesn't believe that he would support this waiver. Mr. LeConte said that he will need to review the Ordinance regarding utilities further to get more clarification.

Scott Strynar asked if it will be a shared driveway that splits to the duplex or will it be 2 different driveways. Mr. Mende said that the design will be for shared driveways. He stated that he hasn't seen any house designs yet. Mr. Strynar asked if there was going to be any garages. Jacob Doyon stepped forward and said that he was going to be the builder on the properties. He said that they will have a shared garage and the driveway will come up the middle. Each residence will have their own walkway going up to the house. He said that the garage creates a separation between the 2 residences. David Ballard asked if there was going to be anything above the garage and Mr. Doyon said that there would not be. Mr. Mende said that from an engineering perspective, they want to keep the impervious area to a minimum because of the stormwater concerns and the size of the lots.

Lee Jay Feldman asked what they would like to waive in regard to the driveway. Mr. Mende said that, in the Ordinance a driveway can only service 2 dwelling units. The driveway on Lot 4

would already be serving the 2 dwelling units. If they wanted to use the same exit from the cul-de-sac to serve Lot 5 and then split off in a “y” and go to Lot 5, they would need a waiver if that is allowed. He said that it would make sense to do it that way, but he doesn’t know if they can do it.

Matt LeConte said that he was reviewing the waiver regarding utilities with Lee Jay. Typically, the underground utilities are electrical. He said that the Planning Board can waive the utilities to be done above ground. He said that in regard to the driveway situation, he does not believe that the Road Commissioner would approve it. Chris Mende said that they can write a letter to Dwayne Morin explaining why they would like the driveway done that way. Mr. Feldman told him that he should also put together a quick little plan showing what they want done. He said from his standpoint, it makes perfect sense for the Board to grant the waiver. This way there would not be 2 curb cuts next to each other and they would be utilizing one on the cul-de-sac. He believes that a visual would be important to show this.

Lee Jay Feldman responded to Acting Chairman Morse’s question about the utilities. He said that in section 10.5 under General Standards for the Subdivision Regulations in the Utilities section, it reads, “All utilities shall be installed underground except as otherwise approved by the Board.”. If they request a waiver and go to Article 13, there are 2 sections that deal with special circumstances for required improvements not requisite for the public health, safety, or welfare. He stated that this would be up to Mr. Mende to identify which one of those they could use to request a waiver. David Ballard asked where the other utilities on that road were located. Scott Strynar said that they are above ground.

Mr. Mende stated that after the application was filed, he sent an email to the CEO to see if Adeline’s Way would be an acceptable name for the road. The Board stated that this would be more of a question for the Police Chief or Fire Chief review. They would need to run it through the 911 system and make sure there is no conflict.

Mark Cahoon motioned to accept the application for the Hagan Subdivision (Map 001 Lot 070 & 070A) as being complete. David Ballard seconded the motion. VOTE: 4-0 Abstain: 1

Chris Mende said that since this is going to be a condominium development, will the Board require that they have design plans as part of the application. He said that usually with condominium documents they usually define the units in terms of inside surfaces and the outside surfaces. There will have to be a plan filed at the Registry of Deeds that show the basic configuration. The limited common areas that will be enjoyed by the owners of the 2 units and that would be everything outside of the building. Scott Strynar said that he is curious to see how the driveway will come up to the garage and divide to the units. Acting Chairman Morse stated that they will eventually want to see the dimensions of the building. He doesn’t really need to see what the sizes of the rooms will be.

David Ballard asked if the turnabout was meeting all of the requirements that would be needed for a fire truck to turn around in. Matt LeConte said that it does meet the requirements.

The Board discussed when they should have a site walk.

David Ballard motioned to do a site walk at 5:00 on 9/9/21. Scott Strynar seconded the motion.

VOTE: 4-0 Abstain: 1

4. Other Business:

There was no other business at this time.

5. Adjournment:

Scott Strynar motioned to adjourn the meeting at 7:37 pm. Mark Cahoon seconded the motion.

VOTE: 5-0

Matthew Leconte
Planning Coordinator

Respectively submitted,
Susan Niehoff, Stenographer

Chairman Geoffrey Aleva

Jon Morse

Anne Whitten

David Ballard

Scott Strynar

Mark Cahoon