

## **NORTH BERWICK PLANNING BOARD**

### **MINUTES OF PLANNING BOARD SEPTEMBER 8, 2022**

**Present:** Chairman Jon Morse Anne Whitten, Mark Cahoon, David Ballard, Scott Carpenter, Justin Perry

**Absent:** Scott Strynar

**Also Present:** Matt LeConte, Chester Coffey, Karen Diebolt, David Brauning, Joseph Lauze, Alan Caler, Sue Caler, Scott Dixon, Scott Beaudet, Dana Libby, Tiffany Chase, Aspen Power

1. Call to Order:

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

Chairman Morse moved Scott Carpenter up to full voting status.

2. Review Previous Minutes: August 25, 2022

Mark Cahoon motioned to table the August 25, 2022 Minutes until the next meeting. Anne Whitten seconded the motion. VOTE: 5-0

3. Current Business:

3.1 Public Hearing: The Patterson Companies, LLC.

Butler Road, Map 004 Lot 06-13

Amend existing subdivision dividing the remaining lot in two lots.

Dana Libby, from Corner Post Land Surveying, stated he was representing the Patterson Company. He indicated they are proposing an amendment to a subdivision which was approved four years ago. This is a remaining piece of land which they are looking to divide in half to make way for a future solar farm. The lot has been soil tested, wetland has been mapped. Dana indicated there were two vernal pools on the property and both of them not significant. He stated it is pretty straight forward.

Anne Whitten inquired about the two divided lots and how nothing was on either lot. Dana stated that was correct and that there was a subdivision all around it. Matt LeConte indicated that this is all subdivision and this is one more piece of the subdivision making a total of 13 which is indicated on the paperwork. Dana stated it would be a total of 10 lots. David

Ballard stated the paperwork states "it will make this a 13<sup>th</sup> lot". Dana stated the remaining lot is Lot 13 for the tax map and they are calling it 13A and 13B but the original subdivision had eight lots on one side and this will make a total of ten. It is Lot 6-13.

David Ballard inquired about the sidenotes and the rear set back is indicated as 25 feet and believes it is supposed to be 30 feet and side setback is supposed to be 35 feet and it is indicated as having 30 feet. David Ballard also stated there is a comment in G which talks about splitting the zone, which he stated is being done in farm/forest and Village B, and the note talks about 100-foot abutting side setbacks and that should be annotated in the sidenotes if all the other setbacks are being noted there. David stated that in paragraph G of the zoning ordinance, there is a 100-foot setback for abutting properties when the zones are being mixed. Dana asked if this was building setback and David stated it was and that has to be abided by on all the lines all the way around because they are all abutting properties. David stated he would like to see that noted in the sidenotes. Dana asked if it was a 100-foot setback from all of the residential homes and David indicated it does state that in paragraph G of the zoning ordinance, page 4-14. Dana indicated he could certainly add that setback into the notes. Matt confirmed that it would make sense to capture that on the notes and David Ballard stated that if all the other setbacks are included on the notes, just include the last setback to be consistent.

David Ballard had another question about the vernal pools. He wanted to verify that he had gotten an answer back from the DEP confirming they are not significant. Dana stated they were filed with the DEP so they should be there. David stated that on page 3 it stated that the Maine Inland is supposed to give an answer and wondered if he had gotten feedback yet. Dana stated he could not answer that question and believed if it was a significant vernal pool, it would have been checked off in the first box. Matt stated that could be added as a condition of approval if the Board sees fit.

Chairman Morse opened the Public Hearing at 6:45.

Scott Dixon stated he resides at 120 Valley Road and is curious about the buffer and if the land is being divided as residential. He indicated that earlier it was stated that it can be solar and residential and he knows the plan for this is to have solar and the 100-foot buffer means a lot to the property owners. Scott was concerned that if the solar does not go through, and something else ends up going back there, he would like assurance that there is at least 100-foot buffer. Anne Whitten stated there would be another meeting and that would be addressed at that time and the Board will be able to set buffers and regulations. Scott was satisfied with that.

Chester Coffey stated he was also a land owner and asked if solar was a commercial entity or not. Chairman Morse stated it was. Chester asked if that makes the setbacks different and Anne Whitten stated it makes it 100 feet or more.

Chairman Morse closed the Public Hearing at 6:49

Anne Whitten motioned to table this subject until the next meeting to further review the large packet of information.

Dana Libby stated the only reason for tonight's meeting is to simply split the lot in half. Matt stated what is proposed in the future should not muddy this meeting as this is just to split the lot in half. The proposed uses for the land are not before the Board at this time. If the Board has concerns and would like to make amendments such as a condition for approval or if the Board chooses to have one final review of the amended information on the significance of vernal pools, they can. David feels he would like to see a cleaner document for just splitting the lot instead of added information for a future use.

David Ballard questioned the road frontage and Matt stated that the majority of the area of the lot in the particular zone applies or supersedes the requirement. The road frontage to split the lot is met on Butler Road. Chairman Morse indicated on Village B there is 130 feet of road frontage and in Farm & Forest, there is 104 feet of road frontage. He will not be able to subdivide this lot again.

Anne Whitten withdrew her motion to table the subject and have the paperwork cleaned up to just indicate the splitting of the lot. Vernal pools, set backs for potential construction and the solar panel farm plan was included in the application and she feels, like David, that those should not be included at this time since the only thing before the Board at this time is the splitting of the lot. Dana indicated that the mapping will not change. Matt stated that anything mentioning or discussing the future use, the Board would like that removed from the application booklet as a final review. David Ballard stated having this additional information included in this application almost gives the impression that the Board has somewhat approved it and that is why he would like the application cleaned up to remove that information.

Chairman Morse stated that the Board will make two conditions of approval, the first one being to take off from the Plan any mention of the solar farm or any reference of future use and put on the plan the correct setbacks and the second one would be a letter or email from the DEP confirming the insignificant vernal pools.

Anne Whitten motioned to approve The Patterson Companies, LLC., Butler Road, Map 004 Lot 06-13 amending existing subdivision dividing the remaining lot in two lots and only dividing the remaining lot into two lots with the conditions that all prior approvals and any conditions of approval for the subject property not specifically modified within these conditions is hereby confirmed. The standard conditions of approval shall apply in addition to the additional conditions contained herein: the subject property may not be disturbed from its natural state until a site man has reviewed and approved and all conditions have been met. This includes but not limited to the planting of any vegetation, soil disturbances, earth moving, impacting of any natural features such as streams, wetlands, species and habitat disturbance and similar. Also, to make note of Note G in the Table, fix all the dimensions on the Plan, remove the solar farm from the Plan and receive a letter or email from the DEP stating that the vernal pools are insignificant. David Ballard seconded. VOTE: 5-0

3.2 Public Meeting: Robert Samuelson  
90 High Street, Map 002 Lot 21-1A  
Conditional Use permit request for In-law accessory apartment in a portion of the  
existing attached garage.

Karen Diebolt stated that Robert Samuelson is her husband and they are the owners of the property. She stated she just bought the house in February and the in-law apartment is actually already there and they are trying to get it approved because it was never approved. She stated that Matt has been to the house and stated that it is a little big as far as square-footage goes and they would like to put up a sheetrock wall in order to comply. She did state there are already countertops and appliances there and it was almost completed except for some of the sheetrock. They did pull out the insulation because it had sat vacant for so long and mice were present.

Matt stated that he was told this was an extension of living space for the male owner and it had some permits for finished space but not as a dwelling. Anne Whitten asked who the in-laws were that were going to be living there and Karen stated it is going to mostly for their grown children to stay.

Matt stated that the application states that it is going to be an In-law/Accessory apartment. Matt indicated that if it is proposed for family use to have a second dwelling, the Board could approve that. David Ballard believes the Board has held it to a family member in the past but not necessarily an in-law. Chairman Morse asked Karen what she would be using this space for if it got approved. Karen indicated it would be strictly for family. She has a daughter in California that may come and stay for four or five months until she finds an apartment. She also indicated that it would be used during the holidays for overflow space and the space already exists.

David Ballard stated he believes there is 674 square footage and there can only be 650 square feet. Karen stated there is another half wall in the living room that may not be on the plan. Mark Cahoon asked if this dwelling already had its own plumbing and sewer line. Matt indicated that it does have plumbing and Karen confirmed that it has a pellet stove for heat. Matt stated under State Law, they will be required to upgrade the system or add a supplemental sewer system to accommodate an additional 120 gallons per day as an attached in-law apartment. If it were detached, it would have to be 180 gallons per day minimum.

Justin Perry asked if this apartment was built by Fred Perkins originally and they confirmed it was. Justin stated since it was existing, it just needs to be legalized and what are the ramifications if it gets approved and six months later, they see a "for rent" sign out front. Matt stated they cannot do that. Justin asked if that would be enforceable. Matt stated the initial use does state in-law and not rental property.

Chairman Morse asked if the stairs shown are the only entrance and exit and Karen indicated they were and he also wondered if the windows were big enough to be considered as egress windows. Karen stated they were very large and Matt indicated they would be required to be.

David Ballard inquired about whether the chimneys were actual working chimneys and Karen stated that neither of them are and they go all the way down but there are no fireplaces inside the house anywhere. There is a basement in the garage also. Matt indicated that the access for the proposed in-law apartment is through the mudroom.

Anne Whitten motioned to set an escrow of \$100.00 for the Robert Samuelson, 90 High Street, Map 002 Lot 21-1A Conditional Use permit request for In-law accessory apartment in a portion of the existing attached garage. Mark Cahoon seconded. VOTE: 5-0

4. Other Business:

Matt stated that we will be meeting with Lee Jay next week, who is not coming back, but will be assigning a new planner.

Matt did receive an email that the Adeline Subdivision land has sold and they will be making amendments to the ownership.

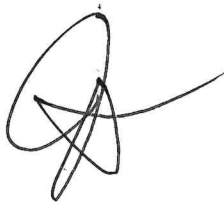
5. Adjournment:

Mark Cahoon motioned to adjourn the meeting at 7:45 p.m. Anne Whitten seconded the motion. VOTE: 5-0

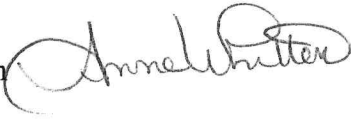
Matthew LeConte  
Planning Coordinator

Respectively submitted,  
Jennifer Berard, Stenographer

Chairman Jon Morse

A stylized, handwritten signature in black ink, consisting of a large loop followed by a horizontal stroke and a diagonal line.

Anne Whitten

A handwritten signature in black ink, written in a cursive style that closely matches the printed name "Anne Whitten".

David Ballard

Scott Strynar

A handwritten signature in blue ink, written in a cursive style that matches the printed name "Scott Strynar".

Mark Cahoon

A handwritten signature in blue ink, written in a cursive style that matches the printed name "Mark Cahoon".

Scott Carpenter

A handwritten signature in black ink, written in a cursive style that matches the printed name "Scott Carpenter".

Justin Perry