

## NORTH BERWICK PLANNING BOARD

### MINUTES OF PLANNING BOARD JANUARY 12, 2022

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

**Also Present:** Matt LeConte, Dwayne Buck, Gordon Smith, Mary Zucco, Francesca Zucco

1. Call to Order:

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

Chairman Morse moved Justin Perry to full voting status for tonight's meeting.

2. Review Previous Minutes: November 10, 2022 & December 8, 2023

Mark Cahoon motioned to approve the November 10, 2022 Minutes as written. David Ballard seconded the motion. VOTE: 4-0-1

Mark Cahoon motioned to approve the December 8, 2022 Minutes as written. David Ballard seconded the motion. VOTE: 4-0-1

3. Current Business:

3.1 Public Meeting:

Dwayne & Jolene Buck

47 Quarry Road, Map 004, Lot 95 Map 001-005 & 006

Proposed Family Cemetery on a portion of the property, located in the Residential II Zoning District

Dwayne Buck stated that he is the son-in-law of the original owners of the property, Roland and Joan Rhodes. He and his wife live in the property now. Roland and Joan have passed away and there is a small stone out back which has become a memorial. He indicated that two more family relatives have passed away and they want to make it an official cemetery for the Rhodes family. They are not planning on burying anyone there but rather specify that it is cremation only and are looking to put a small fence around. Chairman Morse confirmed that it would be a family cemetery and asked how far back it would be going family-wise. Dwayne stated it would be pretty much only the people who lived there or live there. Dwayne indicated it would be put in the same area that the current memorial is and provided the Board with a diagram. Dwayne stated it was putting a small fence around it. They will be putting one headstone up and burying the small cremation vaults. David Ballard inquired about the "Title 13

Article 100 foot from any dwelling clause". His concern was the property next door and Dwayne indicated the house was more than 100-foot away. The property is 70 feet away from the neighbor's property. He wouldn't want to impose the distance on the neighbor if he only has 70 feet to the property line. Matt stated that the next step would be a letter to the abutters regarding this and if there were to be any questions regarding Title 13 or there are abutter concerns, those will be addressed at the next meeting. Dwayne stated that if there are any issues, he could move it over. David Ballard also inquired about any wells on the property and asked that the well be added to the sketch if possible. Dwayne inquired about any fencing around the memorial and Matt stated he would look into that issue before the next meeting.

Mark Cahoon motioned that escrow be set for \$150.00 for Dwayne & Jolene Buck. David Ballard seconded the motion. VOTE: 4-0-1

Mark Cahoon motioned that a further Hearing be scheduled for February 23, 2023. For Dwayne & Jolene Buck. David Ballard seconded the motion. VOTE: 4-0-1

3.2 Public Meeting:

Verizon Wireless on behalf of Town of North Berwick  
21 Main Street, Map 018, Lot 19

Request for a Conditional Use Permit to install wireless antennas and related equipment on and in the North Berwick Town Hall for an expired past approval.

Gordon Smith, who is representing Verizon, who is proposing to put antennas on the roof of the Town Hall and to lease an equipment room on the third floor. There will also be a dormer that will be put on the roof to route some of the wiring and the antennas will be placed along side one of the chimneys. Anne Whitten asked if anything has changed since the last time they were in front of the Board with this proposal. Gordon stated there are some minor changes which relate to the type of antennas that are going up and it is more modern/current equipment since the last time. He indicated there will be 5G LT antennas that will be the same size and look the same but just more current. The dormer was changed slightly to match the existing dormers on the building. David Ballard asked if the equipment was fixed equipment and Gordon stated it was. Gordon stated that it is basically the same application that was previously granted and extended and wondered if the Board was going to view this as a new application or an extension of the existing approval. Matt stated that if there is no drastic change, then they are essentially just looking for an extension.

Anne Whitten motioned that the Board accept a request for a 9-month Conditional Use Permit extension for the Verizon Wireless, 21 Main Street Map 018, Lot 19 project with all conditions previously agreed to. Mark Cahoon seconded the motion. VOTE: 5-0

3.3 Public Meeting:

Mary & Francesca Zucco  
6 Burma Road, Map 022, Lot 67

Conditional Use Application request for a home occupation – family day care. The property is located in the Village C Zoning District

Mary Zucco and her daughter Francesca appeared before the Board and stated they have been operating a similar child care in Massachusetts and have recently purchased the Burma Road property to move the child care to North Berwick. Mary indicated she lives in Wells and has a house in Massachusetts. She stated her plan is that once the family child care is up and running in Maine, then they would sell their Massachusetts home and just operate and live in Maine. She stated the child care is basically already in use now, just in a different state. Chairman Morse asked about the fenced in area. Mary stated she tried to get a survey to provide but it appears that there was never one done on the property. Mary provided the Board with listing photos of the property. Matt stated that the State also has to license all daycares. Mary stated that she is licensed already by the State of Maine, and after they receive the permit, they will come in to make any changes to the property that they need. Chairman Morse confirmed that she has already gone to the State and gotten any permits required from them. Mary indicated she had gotten the permits and she is just waiting for North Berwick to give her the approval. She stated the State cannot go forward any further until the permit is received.

David Ballard asked if someone was going to be living in the home. Mary stated yes someone would be. David confirmed that it would be a home occupation and not necessarily a day care. Mary stated it is a family child care center which she believes is what Maine calls it. David stated that a home occupation is not supposed to be more than 30% of the square footage. Mary stated that a family child care center has to be lived in. David explained that a home occupation is basically a home with a small office in it and kept separate. From looking at the pictures she has provided, it appears that they are using the whole dining room, living room and whole first floor. Mary stated we would be sharing that space. Anne Whitten referenced the photos and stated that she is not seeing much of a separation. Mary stated that the living area would be upstairs, and the downstairs is the child care. Anne stated that would be too large because there is a 30% maximum of the whole area for the child care. Mary stated they could remove the kitchen from the area if needed. Anne stated there has to be a designated area for the child care. Justin Perry asked if they move forward and only use the 30%, would physical walls have to be put in to carve out a portion of the first floor where it is all open-concept at the present time. David believes it does not say that anywhere but wants to make sure everyone is on the same page. Mark Cahoon feels there should be a site walk for this property so everyone can see what is being proposed and it would answer a lot of questions. Mary stated that Massachusetts never required a site walk. Anne Whitten reminded Mary that she is not in Massachusetts and that she is in Maine.

Mary asked if there was something else she should be applying for instead of a home occupancy permit. Matt stated alternatively it would be a commercial day care and that would mean it is not what they are applying for or intending. Matt stated that the intent of the ordinance is to make it secondary to living in the home. David referenced the "7 – 10 children" and felt that was more of a daycare rather than say 3 or 4 children. He indicated that the more children that were there, the more vehicles would be dropping off and picking up, parking spaces, etc. which creates more to look at than just a home office. Mary stated Maine licenses for 12 children where Massachusetts only goes up to 10 children. David asked how many children they expected to be

caring for. Mary indicated 8 to 10 which is what they do now and no more than 10 children. Matt felt that she went through the process differently than what is really required which is to get approval from the Planning Board, then the Planning Board with their approval, can apply for essentially a change of occupancy permit which produces an inspection where the property is looked at from a child safety standpoint, look at codes, etc. and all of this is done before the State goes in there. The only gray area that Matt has, as being a family day care, it is open concept, is there a line per say that defines what is dining room and the kitchen. Mary stated that the children would bring their own lunchboxes and the only food provided by the child care center would be dry snacks. Justin Perry feels there needs to be a more detailed layout of the interior showing that there are in fact walls and separation between the kitchen and the other rooms. He stated there needs to be a floor plan showing the separation between the child area, and living areas. He feels they need that first and then go do a site walk. Mary feels that this is something the State would do. Anne stated that North Berwick, as the municipality has to make sure that we are giving the correct permit. Mary asked if there are rules written stating what has to be done. David Ballard indicated that if we were to go straight off the rules right now, they would say no because of the 30% square footage which is not being followed from the photos provided. He stated they will need to see a better footprint to confirm that they are complying with the article. Mary stated if she had a copy of the Rules for a Family Child Care in the State of Maine, she would have already met those before coming in to meet with the Board. David Ballard provided Mary with the Conditional Use - Home Occupancy Ordinance.

Chairman Morse stated that although they have pictures which she provided, the Board does not know how big these rooms are. Mary stated she has the listing paperwork. Justin Perry indicated that they would need a drawing to look at breaking out each room by size and then a definition of what areas are going to be used for child care so at the very least, they could do the simple math to get the percentage being used.

David Ballard stated he had some other concerns. One being any outside areas are not supposed to take away from the neighborhood and also with 12 or so people, the ordinance talks about parking. Additional parking or adequate parking needs to be looked at.

Mary stated she feels she has been trying for a couple months to get this going and it seems to be dragging out. Mary and Francesca indicated they can have whatever is needed available as soon as possible. Chairman Morse advised Mary to go in to Matt's office next Tuesday and he will advise them of everything they need to get the Board. Mary stated she has been doing child care for 40 years and Maine is very different than Massachusetts. Matt feels the Board needs to narrow down what they absolutely need to get a clear understanding of what they are asking for. Matt stated this is deemed as a business and meets the exception of a home occupation because it is in the home and therefore has to meet all criteria. Matt also stated the application submittal came in in separate pieces in quite a few weeks period of time. Mary stated that is not her opinion but she is happy to do anything needed and to just give her a list, do a site walk or anything but she wants to get this going as soon as possible. Matt stated they will need to provide a dimensioned floor plan on 11x17 paper that is legible showing each room which is very standard. Matt stated he mentioned a site plan which alludes on the application that they have had all along but apparently that is not the case. Matt stated he tried to set up a meeting

which would have made it easier. They got in to the meeting tonight fortunately because someone else backed out.

Justin Perry stated that all of the information for the home occupancy is available on the Town's website under zoning ordinances and that may be helpful. He stated that copies of the tax map are also available which would give them the dimensions of their property. Chairman Morse advised them to make several copies of all of her paperwork and have them available at the site walk. Chairman Morse advised Mary to get everything to Matt by the January 19<sup>th</sup> so this can go forward. Matt also stated the escrow will be approximately \$1,000.00.

Anne Whitten asked if they are on public or private water/sewer. They advised they were on public.

Anne Whitten motioned that a site walk be performed at 6 Burma Road at 5:45 p.m. on January 26, 2023. Mark Cahoon seconded the motion. VOTE: 5-0

**Reminders: Next Planning Board Meeting – January 26, 2023 - 6:30 P.M.**

4. Other Business:

5. Adjournment:

Mark Cahoon motioned to adjourn the meeting at 7:51 p.m. David Ballard seconded the motion. VOTE: 5-0

Matthew LeConte  
Planning Coordinator

Respectively submitted,  
Jennifer Berard, Stenographer

Chairman Jon Morse

Anne Whitten

David Ballard

Scott Strynar

Mark Cahoon

Scott Carpenter

Justin Perry