

NORTH BERWICK PLANNING BOARD

MINUTES OF PLANNING BOARD JULY 27, 2023

Present: Chairman Jon Morse, Anne Whitten, Mark Cahoon, Justin Perry, David Ballard, Jack Olea

Absent: Scott Carpenter

Also Present: Matt LeConte, Jim Berard, Rebecca Reed, Shea Armstrong, David Springer, Walter Pelkey Kelsey Geer, Andrew Doucette

1. Call to Order:

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

Chairman Jon Morse moved Justin Perry up to full voting status for this meeting.

2. Review Previous Minutes: June 22, 2023 and July 13, 2023

Mark Cahoon motioned to approve the Minutes of June 22, 2023 as written. Anne Whitten seconded the motion. VOTE: 6-0

Anne Whitten motioned to table the Minutes of July 13, 2023 until end of this meeting or until the next meeting. Mark Cahoon seconded the motion. VOTE: 6-0

3. Current Business:

4. Public Meeting:

Zoning Amendment request regarding Ordinance Sec. 5.2.5 Planned Unit Development, Cluster Development, Motels. – Further discussion with applicant and Engineer.

Chairman Morse read into the record the Memo from Walter Pelkey at BH2M to the Town of North Berwick as follows:

“Please find attached a memo outlining a zoning amendment our client, David Springer would like to pursue. The memo outlines the current water supply requirements for the Town of North Berwick Planned Developments with comparisons to other municipalities in the area. The memo also speaks to the State of Maine minimum requirements for single family homes in regard to private septic and private individual drilled wells. We’d ask to be placed on the next available agenda for discussion with the Planning Board. Please call me if you have any questions regarding this request or if any additional information is needed for this submission. We look forward to working with both North Berwick and Berwick on this project.”

Walter Pelkey from BH2M provided a quick overview regarding what was talked about the last meeting of May 11, 2023. He stated they looked at surrounding municipalities in regards to private water systems as well as state minimum standards and tried to find a reasonable middle ground as far as water systems are concerned. The state standard requires 20,000 minimum square feet. They took the information they received from the state and looked at abutting towns to see what they were using as a minimum requirement for PUD/Cluster Development and they came up with 30,000 square feet that they would like to use for Dave Springer's Development. Walter stated they are looking to lower their lot sizes down from anywhere from 80 to 160 which is the zoning requirement and they do not intend to go anywhere near 30,000 square feet as Dave wants larger lots. He indicated they have had some language which they wish to propose and it is referenced in the narrative which the Town received. Walter stated that one important thing is they are still by the general rules of Cluster/PUD and there is no increase in use and this will simply increase open space and reduce infrastructure in the town.

The question was asked about the open space and what was to happen if someone came back in front of the Board at a later date and wanted to build more dwellings. Matt gave a scenario that even if Dave Springer were allowed 10 dwellings on that 100,000 square foot lot, and the amendment was changed and the amendment allowed for more than one water source, even if he sells it, and even if someone comes back in front of the Board later on, 10 is the final number and there is no maneuvering that number. Matt stated that the water source is a "one size fits all" and every PUD whether it is a cluster of 6 buildings within 500 feet have to have one water source. If it is 20 buildings within 3 miles of each other, have to have one water source and so the request is to find a way to not make it "one size fits all" if possible and come up with something that fits the classification of the type of PUD. Chairman Morse agreed with this and stated that the size of the lot that Dave is proposing will not be a problem in putting individual septic systems on those lots and he doesn't believe the original town ordinance had this type of situation in mind at the time. David Ballard also wondered why the ordinance was written the way it was and believed that they were perhaps trying to prevent motels and hotels from coming in. Justin Perry believes they did it to make it financially impactful to try to make smaller lots in the farm and forest area in an effort to preserve the farm and forest district.

The ordinance currently reads as follows:

"10. All dwelling units in a planned development or open space development shall be connected to a common water supply and distribution system, either public or private, at no expense to the Municipality.."

Walter referenced the memo to the town, wherein they propose the following "modifications to section 5.2.5-b-10 of the Town Zoning Ordinance to read as follows:

"10. All dwelling units in a planned development or open space development shall be have a lot area greater than 30,000 s.f. for single family dwelling development, or for larger and multifamily dwellings, prorated lot area of 30,000 s.f. per 300 gallons per day (gpd) for inflows to a subsurface wastewater disposal system. Lots proposed with less than 30,000 s.f may be considered for approval by the planning board if connected to a common water supply and distribution system, either public or private, developed at

no expense to the Municipality, but otherwise shall be in conformance with state subsurface wastewater disposal rules.

Matt stated that this is only one version of the proposed amendment and much like the change to the solar ordinance, the authority to amend or suggest an amendment is that of the Planning Board. Anne Whitten stated she was also questioning what the reasoning was why the amendment was written as it was to begin with and she feels they would need more time to look into this.

Chairman Morse asked where in town there is a PUD with one water supply and Matt indicated that there is one on the corner of Morrell's Mills Road and Fox Farm Hill Road and has not been one since then. They are apartments but it is an approved PUD with one private water source. The Mick Subdivision is going to be coming before the Board and they are a PUD with the only difference being a public water source on the road in front. Matt stated that the applicant and the engineer has provided information on what other municipalities do in the area. Anne Whitten stated in her opinion, North Berwick does not look like Berwick, Sanford, Wells and she does not want this to be detrimental to the look of the Town. David Ballard believes we do not have a square footage ordinance at all right now relating to size, and it is, like Matt stated, a "one size fits all" regarding one water source. He stated other towns at least have a size and would like to see some number be established in this town.

Walter indicated that the only reduction is the lot size for private water and does not change the number of units he can put on the property. In order to make it financially doable with one water source, he would have to have more lots and he is not asking for that. Justin Perry asked how many usable acres with this total land owned, backing out wetlands, etc. does Dave have as they are basing lot sizes on total usable land. Walter stated he did not have the exact number with him but has done the calculations. Matt stated that the goal at tonight's meeting is not to say yes or no, or chose an exact number but instead is to be a clear understanding of what is being asked or requested and what possibilities might be there for change and what implications and what does the Board want to prevent going forward. Mark Cahoon feels that a workshop would be beneficial to come up with a solution to this.

Anne Whitten motioned to table request made by applicant regarding ordinance discussions. Mark Cahoon seconded the motion. VOTE: 5-0

Anne Whitten motioned to schedule a workshop for a meeting on September 14. Mark Cahoon seconded the motion. VOTE: 5-0

5. Public Meeting:
Shea Armstrong
222 Lebanon Road, Map 004 Lot 22-2
Initial review of Conditional Use Permit for In-Law Apartment over existing garage. The property is located in Village B Zoning District.

Shea Armstrong stated he and his wife are interested in putting in an in-law apartment above their existing garage. They stated the reason is that they have friends and family all over the country including Northern Maine and Massachusetts and everyone's family is getting bigger and when they come to visit, it is getting tight and they need additional space.

Anne Whitten read the first condition of the Town's Ordinance relating to an In-Law Accessory Apartment as follows: *"1. The initial use of the apartment is for the care of in-laws."*

Shea stated that he has provided several drawings and pictures of how he proposes the apartment will be set up, several photographs of house and garage. He stated he would like to do a water system from his basement that goes into the garage. He indicated they would put a new septic system in the back because the garage does not attach to the home, he will need a 1,000-gallon system. He is proposing building a deck with a landing, inserting windows and skylights, and egress route. Matt asked if those would be operable skylights and Shea indicated they would not be. He stated he has been working with Septic Systems of Maine and provided a copy of a system he is proposing being utilized. Matt stated that the septic system proposed would require a permit and the designer would provide specifics on that.

Anne Whitten asked who the "in-law" was that he would be taking care of. Shea stated he was not going to be taking care of any in-law. Anne stated again that the initial use of the apartment is for the care of an in-law. Shea asked if he should just leave.

Justin Perry asked if the kitchen area was completely eliminated from this project, if it would simply be a finished area on the second floor of the garage and not considered an apartment. Matt stated that if he were to apply for a building permit to create additional living space including a sleeping area, that would require an expansion of his existing septic system or installation of an additional septic system and would not require Planning Board approval. Justin stated that he would perhaps recommend to Shea getting rid of the kitchen and make a bonus room with a bathroom for people to stay in when visiting. Anne stated that a kitchen makes it a dwelling area. Matt stated that a kitchen constitutes a full-size refrigerator, dishwasher, cooking appliances and a full-size sink and stated many people have constructed a great room over their attached garage and put a bar, small sink, under-the-counter refrigerator and it was just considered additional living area/recreational space.

David Ballard indicated that if he was coming to apply for an in-law apartment, that is not what is being requested verbally at this time. Chairman Morse asked Shea if he has in-laws and Shea indicated he does and they are 70, both retired and live in Sanford, Maine. Justin Perry stated he does not see a way that they could approve it or entertain his application as he does not meet the criteria from the beginning and that Matt could perhaps issue a building permit for a bonus room so long as it does not include a kitchen. Shea stated he would reach out to Matt and go from there.

6. Public Meeting:
Jim & Jennifer Berard
32 Nowell Street, Map 017 Lot 24

Initial review of Conditional Use permit for In-Law apartment over existing garage. The property is located in the Village A Zoning District.

Jim and Jennifer Berard, who live at 32 Nowell Street, stated they are requesting a conditional use permit to build an in-law apartment over their existing garage. Jennifer stated they have a 91-year-old woman named Gloria who they take care of. She currently lives alone and has no children, nieces or nephews. She has named Jennifer as her POA, caregiver and she primarily depends solely on Jennifer, Jim and their family. They currently go to her home in Wells a couple times of day to bring her meals, coffee, to check up on her, pick up her laundry, take her to appointments, etc. and now feel Gloria needs to be closer to them instead of being alone. She will be 92 in January, is in relatively good health but needs more attention than she is currently receiving.

Chairman Morse inquired about the stairs going into the garage and asked if that would be the main entrance to the apartment. Jim stated he was planning on installing an external stairway. Chairman asked how big the garage was. Jim stated it was a 32 x 36 and they would be using less than 650 square feet for an apartment. The garage and house are 5 feet apart. The apartment is going to be over the 3 doors on the front side of the garage. Matt stated if the Board seeks to approve the application, a public notice would have to go out, set an escrow amount and then have another meeting. David Ballard asked why a notice would have to go out and Matt stated it was because it was a conditional use application and unlike a business, they do not have to put a legal notice in the newspaper. In this case, he stated that now a notification letter would be sent out to each abutter who is within 500 feet of the property. Anne Whitten questioned why this was not done before hand and there was some discussion about the process. Justin Perry asked if after the notice is sent out, do abutters come to the next meeting to simply listen or will they be given an opportunity to speak whether there are any issues. Matt understands that this would not be a public hearing and the notice is simply to advise the neighbors that a conditional use application was submitted. Matt stated that if, for whatever reason, there are neighbors who attend, the Chairman always has the ability to open the floor for any discussions if he so chooses.

Justin Perry asked if there needed to be any separation between the entrance and the storage area. There will be no traffic through the storage area. The primary entrance will be the stairway on the outside which will need to be built. Anne stated that there needs to be two egresses. David Ballard stated a wall would need to put up to separate the storage area from the apartment entrance. Justin stated that the best scenario would be to put a wall up to differentiate the living space from the storage area. Matt stated that the area between the living space and storage would simply be an access/hallway/walkway and that does not count towards the living space. Justin asked if the floor plan needs to be updated before accepted. Chairman Morse stated that could be a condition if they so choose.

Anne Whitten motioned that the Application is deemed complete for Jim and Jennifer Berard at 32 Nowell Street 017 Lot 24 regarding a Conditional Use permit for In-Law apartment over existing garage. Mark Cahoon seconded the motion. VOTE: 5-0

Anne Whitten motioned that the escrow be set at \$200. Mark Cahoon seconded the motion. VOTE: 5-0

Anne Whitten motioned that this matter be placed on the next Agenda for 08/10/23.
VOTE: 5-0

David Ballard asked that they bring an updated floor plan to the next meeting. Anne Whitten stated the deck needs to be added to the floor plan.

7. Andy Doucette and Kelsey Greer
11 Pleasant Street
Letter of Intent for Home Occupation

Anne Whitten motioned that Andy Doucette and Kelsey Greer, 11 Pleasant Street be placed on the agenda for tonight's meeting. David Ballard seconded the motion. VOTE: 5-0

Andy stated that he and Kelsey live at 11 Pleasant Street and are getting married in September. They have a blended family with 4 young children. Kelsey has worked as a CNA and in child care for the last five years. Most recently, she was the Assistant Director at Foothill Farm in South Berwick and they have recently closed their doors. Andy and Kelsey have now found themselves in a situation where they did not have daycare for two of their children and Kelsey did not have a job. Andy stated that it has always been a dream of Kelsey's to open her own daycare facility and believe they have the space to now open one at their home. They have had contact with the Regional Licensing Agent from DHHS who also believes they should pursue it. They are a little bit ahead of schedule but due to school starting soon, they feel that is a good thing. Chairman Morse asked if Andy was going to be working in the daycare. Andy stated he works full-time for the Air National Guard in Pease but is approved to help whenever needed. Kelsey stated it would be up to 12 children and after the Fire Marshall comes to the home, they will make the final decision as to how many children they will be approved for. Based on that number, then it would be determined if another staff person would be needed. Chairman Morse asked how many children can be under one person. Kelsey stated that for in-home care, the ratio would be 4-1 for children under 2 ½ ; for children 3-5, the ratio would be 1-8 and then to have 12 children, they would need to be 5 or older for just herself.

David Ballard asked if they would be including their own children in this and Kelsey stated that they have an 8-year-old, 5-year-old, an almost 5-year-old and a 3-year-old. She stated that the 3-year-old would be the only one who counts in the ratio and indicated that any children of their own who are older than 4 years of age, do not count in the ratio. Matt stated that the 8-year-old goes to North Berwick Elementary, the 5-year-old will be going to Hanson School in Lebanon and the other 5-year-old will be at Berwick Early Learning.

Justin stated that unlike a previous application, this application has a defined area with a wall separating the living area from the day care area and inquired about the restroom and asked if they would be traveling from the daycare area to the living area to get there. Kelsey stated that there is a changing table on the outside of the living room because the changing area cannot be located near the play area or the food area. She stated that right across from the changing table is their laundry room which then connects to the bathroom. Andy stated it is almost like a breezeway/hallway area. Kelsey believes that would need to be part of the daycare area because

it would need to be the other emergency exit as there needs to be two. Andy stated that laundry room actually has a door which goes out to the backyard. Andy stated it is a 9-foot x 9 foot.

Kelsey stated that the living room has a glass sliding door and where the changing table is, she can still see the daycare area. Marla Kraft from DHHS stated that a licensed facility, there has to be full supervision at all times and the children have to be seen but for in-home care, it has to be sight or sound. Kelsey indicated as long as the children could be heard, that is acceptable.

Justin Perry asked about the hallway area and whether there needs to be some type of separation between that and the rest of the living area as there is no door there. Andy stated that the only reason any of the children would be outside of the sliding glass door would be if they are going to the bathroom or being changed and in both cases, someone would be with them. The children will not be in the kitchen. Andy stated there is a first-floor bedroom on the other end that they would like to use for a nap area and they have a camera set up in there. They would be escorted to that nap area. Justin stated that there needs to be a defined separation between the living area and daycare area. Kelsey stated that they could potentially use a portion of the daycare for a nap area if necessary.

Matt stated that a site walk would most likely answer questions and help with any concerns. David Ballard would like to see another photo which shows a little more detail regarding square footage for the daycare. Anne Whitten stated that a floor plan would be required as well. She would also need a floor plan of the house as well on 11x17 size paper.

Matt stated that this will require a public hearing and also will require legal notice and a \$1,000 escrow. Whatever money is not used will be returned to the applicant. The site walk can be done before the Board's next meeting and then return for a public hearing on August 24th.

Anne Whitten motioned that a site walk for Andy Doucette and Kelsey Greer at 11 Pleasant Street, be scheduled for August 10, 2023 at 5:30 p.m. Mark Cahoon seconded the motion. VOTE: 5-0

Anne Whitten motioned that the application for Andy Doucette and Kelsey Greer at 11 Pleasant Street be accepted as complete with the understanding that an 11x17 floor plan will be required. Mark Cahoon seconded the motion. VOTE: 5-0

Anne Whitten motioned that escrow be set for \$1,000 for Andy Doucette and Kelsey Greer at 11 Pleasant Street. Mark Cahoon seconded the motion. VOTE: 5-0

Anne Whitten motioned that a Public Hearing be scheduled for August 24, 2023 for Andy Doucette and Kelsey Greer at 11 Pleasant Street. Mark Cahoon seconded the motion. VOTE: 5-0

8. Other Business:

Reminders: Next Planning Board Meeting – August 10, 2023 - 6:30 P.M.

9. Adjournment:

Mark Cahoon motioned to adjourn the meeting at 8:22 p.m. Justin Perry seconded the motion. VOTE: 6-0

Matthew LeConte
Planning Coordinator

Respectively submitted,
Jennifer Berard, Stenographer

Chairman Jon Morse



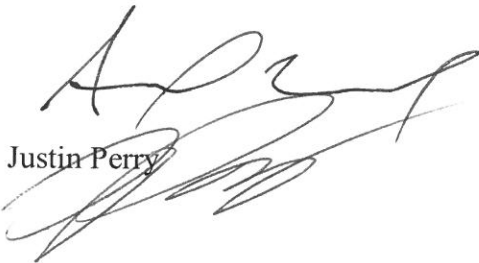
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