

## NORTH BERWICK PLANNING BOARD

### MINUTES OF PLANNING BOARD DECEMBER 14, 2023

**Present:** Anne Whitten, Mark Reed, Jack Olea, David Ballard, Mark Cahoon, Justin Perry

**Also Present:** Matt LeConte, Rebecca Reed, Ben Plante, Stephen Young, Nick Curtis, Michael Traistor, Geoff Aleva

1. Call to Order:

Anne Whitten called the meeting to order at 6:30 pm.

2. Review Previous Minutes: October 26, 2023 and November 9, 2023

Mark Cahoon motioned to accept the Minutes of October 26, 2023 and November 9, 2023 as written. Jack Olea seconded the motion. VOTE: 5-0-1

Current Business:

3. Public Hearing  
Continued Review from November 9, 2023 Meeting  
Stephen Young

439 Bauneg Beg Hill Road – Map 010 Lot 07

Request: A Conditional Use Permit for Home Occupation for Massage Therapy Office within the single-family home. The property is located in the Farm and Forest Zoning District.

Stephen Young stated that he is the mortgage holder on the property and his wife would like to put a massage therapy office in their home. It has its own entrance, own bathroom closed off from the house and has submitted a floor plan. There is a hallway off to the side and that separates the house and garage. Mark Cahoon and Justin Perry indicated that the square footage was appropriate and there were no issues that they were aware of.

AnneWhitten opened and closed the Public Hearing at 6:32

Justin Perry motioned that the Board approve the application for the Conditional Use Permit for a massage therapy office within the single-family home for Stephen Young at 439 Bauneg Beg Hill Road, Map 010 Lot 07 with the hours of operation on M, W & F between 9:00 – 4:00 p.m. and T & T 11:00 – 7:00 p.m. Mark Cahoon seconded the motion. VOTE: 5-0-1

4. Public Meeting:  
Re-review amended application from October 26, 2023 Meeting.  
Curtis Sand and Gravel LLC  
Stub Marsh Road – Map 009 Lot 039 & 051  
Continued review of a Conditional Use Permit for Mineral Extraction use w/ crushing and importation of material for processing. – The Applicant has proposed the development of two mineral extraction locations on including East Pit consisting of 9.5 Acres and West Pit consisting of 4.2 Acres.

Jack Olea and Justin Perry excused themselves from the table as they have abstained from voting on this issue.

Anne Whitten reminded everyone that this was not a public hearing and that there will be no questions allowed from the audience and requested that this meeting be kept respectful. She indicated that the Planning Board had asked that a revised plan showing limited disturbance to include the 250-foot buffer and the incremental staging of excavation plan.

Geoff Aleva from Civil Consultants stated there are two sheets, one labeled PH1 and another labeled PH2 which is the sheet that indicates how the phasing will be done for these gravel pits and how they meet the requirements of the town ordinance for two acres only and how it meets the 250 feet of the wetlands 1 and 3 relating to discussions he has had with IFNW. There will be a stockpile/working area and then as each phase is entered, there will be another area and so on so as to only use two acres at a time. Geoff indicated the main plan that the Board should be looking at is PH2 plan. The PH1 plan is there to indicate the 250-foot limited disturbance area as recommended by IFNW to the town as well as himself. As the area is looked at within the 250-foot disturbance, at any one time, there is not going to be a third to half of that area disturbed as they work through the process. David indicated that his concern is that it is still being disturbed regardless. Geoff indicated it was not a “no disturbance area” but a “limited disturbance area” and this was addressed to the Board. Geoff indicated they received the DEP mining approval, had approval back earlier in the year with the condition that IFNW report back and they did. They issued an initial letter in February and then he had discussions with Scott Lindsay, the IFNW representative, about ways to change the fencing and in this location they did not. Geoff stated the last report that came back from Scott Lindsay that was presented at the end of April describing the recommendation and not the requirement to the 250-foot disturbance. Geoff stated he feels that they have met the requirements of the ordinance and they have met the DEP requirements and are now meeting the request of IFNW.

Attorney Michael Traister had a procedural question to which Attorney Ben Plante had no objection to. Attorney Traister stated there appears there are three members of the Board this evening which he believes constitutes a quorum but typically throughout this entire process, there have been four voting members including Mr. Morse and he asked if

the Applicant has the option to delay review until there are the four voting members including Mr. Morse which is often customary in many towns where there is a reduced size Board. Attorney Ben Plante stated that the Board has a Planning Board Ordinance and it indicates that three members constitute a quorum and the Board shall act by a majority vote. Ben stated that the former chair, Jon Morse, would be the only other member of the Board that has participated in this entire process and if another member was to now sit, that member would need to go back and review all of the meetings which this application has been considered, review all materials, state on the record what they have done to prepare himself and assuming there is no objections from the applicant, could participate in this proceeding. Ben states that given the current constitution of the Board, that could only be the Board's newest member. The other two board members have recused themselves as they have a conflict. He feels there is no obligation for that newest member to do this and the three members constitute a quorum. They did indicate that Jon Morse has resigned from the Planning Board and is no longer a Board Member. Anne Whitten indicated that they should go forward with the three Board Members and will proceed with them.

David Ballard indicated his major concern is the setback being limited and the aquatic life and he feels there has to be a 250 foot non disturbance setback. Mark Cahoon indicated that the Town's comprehensive plan also protects the Blanding turtle and feels this new map does not meet that requirement.

Anne Whitten motioned to adopt the IFNW recommendation to impose a 250-foot buffer around Wetlands 1 and 3 as identified in the IFNW Report where no excavation activity should occur and also in reference to 5.2.2 of the Town of North Berwick's Ordinance and also page 148 of the Town's Comprehensive Plan where there is protection of the Blanding turtles. David Ballard seconded the motion. VOTE: 3-0

Anne Whitten stated that the Planning Board would now ask the Applicant with another plan showing the required 250-foot buffer in place. Geoff Aleva asked where in the IFNW report it referenced the 250-foot buffer in wetlands 1 and 3. Anne Whitten read the paragraph where they recommend that the turtles be protected. Geoff stated he disagrees and Anne stated the Board has now voted on this and that is now how it stands.

Geoff Aleva asked the Board at this time to table the application until a later date. Ben Plante stated that before the Board makes that motion, he had some suggestions as to how the Board should move forward procedurally. He stated that his sense is that the Board feels has all the evidence they need at this time and the last piece is for the Applicant to come back with a revised plan that implements this new buffer. He suggested closing the record except as that revised Plan. This means that no new evidence shall be presented and that once they receive this new plan, the Board can start deliberations on this application. David indicated if he was being honest, he did not know if there actually could be a workable plan but agrees that the record should be closed as to anything else.

David Ballard motioned that the record be closed except for the requested revised plan asked of the Applicant at this meeting. Mark Cahoon seconded the motion. VOTE: 3-0

David Ballard motioned that this item be tabled until the January 11, 2024 meeting. Mark Cahoon seconded the motion. VOTE: 3-0

Other Business:

Anne Whitten welcomed Mark Reed to the Planning Board. Anne stated that Jon Morse has now resigned and a new Chair and Vice Chair needs to be voted in.

Mark Cahoon motioned that Anne Whitten be appointed Chair. Justin Perry seconded the motion. VOTE: 5-0-1

Mark Cahoon motioned that David Ballard be appointed Vice-Chair. Anne Whitten seconded the motion. VOTE: 5-0-1

Matt LeConte presented the final draft updated Ordinance updates for the Board to review and welcomed suggestions but stated there is a tight timeline.

Mark Rouillard addressed the Board, indicating that he would like to fill out an application to be a member of the Planning Board. Matt indicated that the Board was full at this time but directed him to the Clerk's office to fill out an application.

**Reminders: Next Planning Board Meeting – January 11, 2024 - 6:30 P.M.**

Adjournment:

David Ballard motioned to adjourn the meeting at 7:45. Justin Perry seconded the motion. VOTE: 5-0

Matthew LeConte  
Planning Coordinator

Respectively submitted,  
Jennifer Berard, Stenographer

Anne Whitten

David Ballard

Mark Cahoon

A handwritten signature in cursive script, appearing to read "Mark Cahoon".

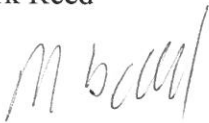
Justin Perry

A handwritten signature in cursive script, appearing to read "Justin Perry".

Jack Olea

A handwritten signature in cursive script, appearing to read "Jack Olea".

Mark Reed

A handwritten signature in cursive script, appearing to read "Mark Reed".