

**NORTH BERWICK, MAINE 03906**

**MINUTES OF PLANNING BOARD APRIL 23, 2015**

**Present:** Chairman Geoffrey Aleva, Mark Cahoon, Rick Reynolds, Anne Whitten, Lawrence Huntley, CEO

**Absent:** Barry Chase, Matthew Qualls, Jon Morse

**Also Present:** Kathleen Wilkinson, Patsy Bragdon, Leana Moxley-Hagan, Arthur O'Brien, Kelly Rouillard, Jerry Schulmaier, Thomas Broadhurst, Shawn Eastman, Heather Eastman, Garrett Eastman, Michael Deroy, Teresa Bell, Sharon Litvinchyk, Larry Litvinchyk

1. Call to Order:

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

Chairman Aleva moved Anne Whitten up to a full voting member for tonight.

2. Review Previous Minutes:

Rick Reynolds stated that on the Page 1, the last sentence needs to be changed. It currently reads, "The entire front portion of the property..." but should read, "In the front portion of the property...".

Rick Reynolds motioned to accept the minutes of April 9, 2015 as amended. Mark Cahoon seconded the motion. VOTE: 4-0

3. Current Business:

Chairman Aleva stated that the first item on the Agenda for tonight was a Public Hearing for Shawn & Heather Eastman. They are proposing to add conditions to an existing Conditional Use Permit at 381 High Street.

Heather Eastman stated that she thinks that their original proposal was misinterpreted. They thought that meals to go were included in the original permit, but it wasn't. They are looking to add this use to the permit.

Chairman Aleva asked Larry Huntley if he had any comments or concerns. Mr. Huntley stated that Mrs. Eastman was correct in stating that this was not on the original application. He stated that the application was for a farm stand and feed store. He said that they evidently wanted to do

other things. They included a list of items that they would like approval for such as meals to go, bakery items, coffee etc. He stated that these items take different preferences and you need to think of each one individually and approve them individually. Larry stated that Meals to go are actually restaurant items which causes it to go to a different application. He said that it also causes a lot of heartache regarding Fire Marshall's permit because you need a special hood over the stove. Since it was left off the original permit, they now need to have approval from the Planning Board so they can get the approval from the Fire Marshall to move forward.

Rick Reynolds asked if the local beer and wine was also a change. Larry stated that this is a change and would be considered like a variety store. He stated that it is allowed in this zone.

Chairman Aleva opened the Public Hearing for public comments at 6:36 pm.

Thomas Broadhurst stated that he has no problem with the original application of a farm store and feed store. He feels that with everything that they want to add now, it will be more of a convenience store, a take-out and/or a restaurant. He does not feel that this would be good in the residential area, especially the selling of beer and wine. He said that there are enough places in town that are selling beer and wine so they don't need it in the residential area. He was wondering what else they would be selling because it states in the paperwork that it would be beer, wine, etc. Anne Whitten stated that she didn't see on her paperwork where it stated "etc.". Larry stated that it was in the letter that was sent to the abutters. Mr. Broadhurst stated that he did not know what list they were looking at. Chairman Aleva read the items on the Project Description that the Board was looking at:

The sale of value added and produce value added products

Meals to go

Coffee

Bakery items

Produce and fruit organic and natural (our own when able)

Hay and grain sales

Greenhouse plants and seedlings

The sale of our own Organic homemade ice-cream

The sale of organic and natural mulch and soil amendments (none treated with dyes or chemicals all natural and certified)

Local beer and local wine sales

Local product sales from farmers and producers

Natural products and organic products

Local beer and wines

Meats

Mr. Broadhurst stated that he didn't really have an issue with anything on the list except the beer and wine. He stated that we already sell this at Cumberland Farms, Allards and soon there will be Hannaford's.

Kathy Wilkinson wanted to know if they were just talking about local beers and wine and not some of the brand names. Mr. Eastman stated they have only found 4 wines that they want to sell and there are about 3-5 beers that they are looking at. Ms. Wilkinson also asked if their meals to go were being prepared on site. Mr. Eastman said that they would be. She went on to say that she was not opposed to any of it.

Sharon Litvinchyk asked what they considered to be local. Was it York County, New England states or just in town? Shawn Eastman stated that the Department of Agriculture considers local to be 150 miles from the home base. He stated that they are trying to stay in state as much as possible.

Teresa Bell stated that she enjoys to do gardening. She said that the more businesses that come into this town, the more trash ends up in her yard. She wanted to know if they will be keeping their trash in a contained area. Chairman Aleva asked Mr. Eastman if they had dumpsters on site and if they were in a screened in area. Mr. Eastman said that they chain them down after filling them but they are not fenced in.

Larry Litvinchyk stated that he is in favor of anything coming into town that will help keep the property tax down.

Patsy Bragdon wanted to know if they were going to extend their hours. Heather Eastman stated that they have been asked to extend them but their original Conditional Use Permit states the hours that they can be open. Patsy Bragdon asked if they would need to come before the Planning Board again to request new hours. Mrs. Eastman said that they would need to do that. Ms. Bragdon stated that she did not have any issues with their request.

Chairman Aleva closed the Public Hearing at 6:45 pm.

Anne Whitten asked what their Meals to go consisted of. Mrs. Eastman said that they do things like a meatloaf dinner that has meatloaf, mashed potatoes and carrots. They also have different salads like garden, macaroni and potato salad. They also have pasta dishes and soups. Anne Whitten asked if these were prepared fresh or if they were prepared ahead of time and frozen. Mrs. Eastman stated that they make them in the morning and then refrigerate them.

Mark Cahoon stated that they should add a condition to enclose their dumpsters to avoid trash getting out. He thinks that they should put a stockade fence around it because it will help contain any trash that spills out. Chairman Aleva said that the Ordinance allows for a fence or shrubs for screening.

Rick Reynolds asked if they were going to have to get a building permit to expand to be able to provide these extra services. Larry stated that their building was big enough and that they only need to get a Fire Marshall's permit. They will be providing food items so they need the Fire Marshall's permit to do that. They cannot get that permit without getting approval from the

Board to do the Meals to go. Rick Reynolds said that he was thinking about the other things on the list such as hay and grain sales. Larry stated that they are already approved to do this. Mr. Reynolds stated that he thought the project description list was everything that they wanted to add to the permit. Larry stated that some of them on that list are already approved. He stated that the Board can just vote on the list and it will cover everything that they want to do. Mr. Reynolds asked which of the items on the list they are not currently approved for. Chairman Aleva stated that it doesn't actually need to be an addition to the Conditional Use. The items that they are looking at are the Meals to go and the bakery items. Everything else is pretty much all set because they are covered under locally grown produce and because they are considered a variety store. Rick Reynolds said that they should just vote on the items that need to be added instead of the complete list. Chairman Aleva agreed.

Larry Huntley asked what the sale of value added and produce value added products meant. Shawn Eastman stated that this means the meals to go. Mr. Huntley asked Mr. Eastman if the Board votes just on adding the Meals to go, would this cover what he needs added. Mr. Eastman said that it would. Larry stated that in our Ordinance in Tables on 4-11B, it states that eating establishments are a conditional use and this is considered an eating establishment because it has takeout.

Chairman Aleva stated that there was some discussion here tonight in regards to the hours of operation. Larry stated that the hours of operation were already approved. Chairman Aleva asked what their current hours were. Mrs. Eastman said that they were 8-6 Tuesday through Saturday and 9-5 on Sunday. Chairman Aleva asked them if they would be interested in extending their hours. He stated that they don't have to expand them if they don't want to yet, but now would be the time to get it approved in case they want to change the time in the future. That way they would not have to come back later with another application. Mrs. Eastman stated that they have been asked to open earlier in the morning so people can get breakfast on the way in to work. Mr. Eastman stated that they would like the option to open earlier. They are currently looking for another baker to help out. They were thinking of maybe being open from 6:00 to 6:00. Larry stated that because they are in a Residential District and he does think that they should open at 6:00 am. He stated that Noise Ordinance says 7:30 am in that District and they currently open at 8:00 am. Larry verified the time on page 5.2 of the Ordinance and stated that they could do 7:00 am to 8:00 pm. Chairman Aleva stated that is just for sound.

Chairman Aleva stated that this property has access right off of Route 4 and it doesn't go through any other development. Larry stated that they do have neighbors.

Rick Reynolds stated that they should put the condition of the acceptance of meals to go, enclosure of the trash containers and possibly expanding the hours of operation.

Chairman Aleva reopened the Public Hearing at 7:01 pm for the discussion regarding the hours of operation.

Kelly Rouillard stated that she lives on the Oak Woods side. She said that she has no problem with the beer and wine and food, but she is concerned about the trucks and the hours that the vehicles are coming in and out. She said that she can see the lights from the vehicles from her bedroom window. She is concerned with the sounds and the privacy. She is also concerned that this will escalate into their doing other things.

Kathleen Wilkinson asked what hours the Board was planning on allowing or being considered. Chairman Aleva stated that this was really up in the air because they have not really had a clear hour time from the applicant. She also stated that she was at the last meeting that this business was proposed and she does not recall beer and wine being discussed. She is a little confused as to how they are approved for selling beer and wine right now. Larry Huntley stated that the previous approval was for a farm stand, variety store and feed store. He said that the variety store includes beer and wine sales. Ms. Wilkinson stated that she did not think that variety store was mentioned previously either. Kelly Rouillard said that she agrees that she did not think this was included in the original application.

Chairman Aleva closed the Public Hearing at 7:07 pm.

Mark Cahoon asked the Eastman's if they were interested in including an expansion of hours as part of this permit and if so, what hours would they be interested in. Mr. Eastman stated that they might like 7:00-6:30. Chairman Aleva asked them if they would like to add that no deliveries be done until after 7:30. Mr. Eastman stated that they don't allow any deliveries to come until after 9:00 anyways.

Anne Whitten stated that she would like the condition to be no deliveries until after 8:00 am instead of 7:30 am.

Rick Reynolds motioned to amend the conditions on the existing Conditional Use Permit at 381 High Street to include the following:

1. Acceptance of the Meals to go
2. Permission for them to have their daily hours be from 7:00 am – 6:30 pm
3. No deliveries until after 8:00 am.
4. There is a screening requirement for the dumpster on site.

Anne Whitten seconded the motion. VOTE: 4-0

Larry Huntley asked Mr. Eastman if they had heard from the Fire Marshall. Mr. Eastman stated that they were a Mercantile B Class and they will have 3 years to complete everything. Larry asked for a copy of this.

Chairman Aleva went on to the next item on the Agenda which is for Art O'Brien. He is proposing an Eating Establishment at 91 Elm Street. Mr. O'Brien stepped forward to explain his

proposal. He stated that they would like to put in something like an old-fashioned hamburger stand with a gas station. He stated that they would be open as a convenience store early in the morning until 8:00 pm. He said that they have also heard that in the winter time, snow plows have no place to get diesel and there is diesel available here. They want to work with the town and the people to have a place that people enjoy coming to. Mr. O'Brien stated that they would like to minimize the convenience store and gas station part of it if possible. They would be putting in grills and serving breakfast sandwiches. There would be a limited amount of seating inside and would like to put picnic tables outside. They would try to stay with locally produced products. They are not looking to sell Twinkies and other junk foods. They would also concentrate on locally produced beer and wine products. They are not looking to sell a lot of the things that Cumberland Farms and Allards sell.

Chairman Aleva asked Larry if he had any comments or concerns. Larry stated that there are a couple of issues. One of them is that it definitely needs to be a gas station because it is MAPES so that will be one use. He said that two uses are allowed on that property. He stated that the Board needs to decide how this use that they are applying for can coincide with one use. Larry said that they cannot qualify as a convenience store and a restaurant because that would be two uses. He said that they need to work with the two of them and put them together and call it an eating establishment or something like. This would limit the part of the convenience store. One of the definitions of a convenience store is selling newspapers, emergency home repair articles and household items. The applicant does not wish to sell those kind of items. Larry stated that it really amounts to an eating establishment and a gas station. He stated that they would be able to sell sandwiches, chips, sodas and other things like that.

Chairman Aleva told Larry that the other business that was there made food, sold food and had a gas station, so what is different with this applicant's proposal. Larry stated that this applicant is talking about meals to go. Chairman Aleva thought that the previous business also had meals to go, but Larry said that they had sandwiches. Chairman Aleva stated that if the applicant was cooking hamburgers and sandwiches he didn't feel that these were considered meals to go. Larry believes that they are considered meals to go. Larry stated that the previous two businesses were variety stores and didn't sell hamburgers or have inside and outside seating.

Rick Reynolds stated that what they want fits more under Restaurant than Eating Establishment. He stated that the Ordinance says the definition of an Eating Establishment is "a business which sells prepared food, and which does not serve alcoholic beverages.". Chairman Aleva said that the key word in the definition is "serve". They will not be serving alcoholic beverages. They will be selling it.

Larry stated that they will need 1 parking space for every 6 seats. Mark Cahoon asked if that included the picnic tables outside and Larry said it did.

Chairman Aleva opened the meeting for public comment at 7:30 pm.

Shawn Eastman stated that there are 3 parking spots along Route 4. He wouldn't consider those parking spots because it makes it very hazardous for people that are getting gas. It is not easily accessible.

Leana Moxley-Hagan stated that she has no issues with the business itself. Her concern is if they will have enough parking for the restaurant part of the establishment and still allow cars to come in and out.

Teresa Bell stated that she is concerned about the trash and making sure it is contained.

Kathleen Wilkinson stated that she is more concerned with trash at this establishment than she is about the previous establishment that was discussed. She said that with people eating outside at the picnic tables, there will probably be some issues with trash containment there.

Chairman Aleva closed the meeting for public comment at 7:34 pm.

Mark Cahoon stated that with the picnic tables and the seating inside, they would need 10 parking spots. He agrees that the 3 spots along Route 4 are a hazard. He also stated that he did not see on the sketch plan where the trash container would be located. He said that it would also need to be enclosed. Mr. Cahoon said that it looks like they really only have 7 spaces at this point.

Chairman Aleva thinks that it would be a good idea to do a site walk. He stated that until the parking issues are addressed, there will be no action by the Board. He recommended that Mr. O'Brien provide a better sketch that would show the layout for the parking. Chairman Aleva said that he could probably get 2 parking spaces along Route 4 instead of 3. Mark Cahoon stated that after they see an updated sketch showing the parking spots and where the trash container would be, they could do a site walk.

Larry Huntley stated that he thinks that the Board could do a site walk with them and then have them do a new plan to bring in next time instead of looking at a plan first and then doing the site walk.

Rick Reynolds motioned to table the application for Art O'Brien's proposal for an eating establishment at 91 Elm Street, North Berwick, ME until after a site walk is completed. Mark Cahoon seconded the motion. VOTE: 4-0

Chairman Aleva stated that they should schedule the site walk early enough so that the applicant can prepare a new site plan before the next Board meeting on May 14, 2015.

The site walk was scheduled for Tuesday, April 28<sup>th</sup> at 5:30 pm.

4. Other Business:

There is no other business at this time.

5. Adjournment:

Mark Cahoon motioned to adjourn the meeting at 7:46 pm. Rick Reynolds seconded the motion.

VOTE: 4-0

Lawrence Huntley, CEO  
Planning Coordinator

Respectively submitted,  
Susan Niehoff, Stenographer

Chairman Geoffrey Aleva

Barry Chase

Rick Reynolds

Mark Cahoon

Jon Morse

Anne Whitten

Matthew Qualls