

## **NORTH BERWICK, ME 03906**

### **MINUTES OF PLANNING BOARD JULY 23, 2015**

**Present:** Chairman Geoffrey Aleva, Anne Whitten, Jon Morse, Mark Cahoon, Matthew Qualls, James Marchese, CEO

**Absent:** Barry Chase, Rick Reynolds

1. Call to Order:

Chairman Aleva opened the meeting at 6:30 pm.

Chairman Aleva stated that Barry Chase and Rick Reynolds were not here but because they would not be voting on anything tonight, he would not need to move anybody up to full voting status.

2. Review Previous Minutes:

Anne Whitten motioned to accept the minutes from July 9, 2015 as written. Matthew Qualls seconded the motion. VOTE: 3-0 Abstain: 2

3. Current Business:

Chairman Aleva stated that the only thing they had on the Agenda was to meet the new Code Enforcement Officer, James Marchese. He asked Mr. Marchese to tell the Board a little about himself. Mr. Marchese stated that he was from Eliot and was the Code Enforcement Officer there for three years. He said that Eliot is a very politically motivated town and he felt it was best for him to step down.

James stated that one of the things that Patti McKenna had brought up to him was a question about a prior applicant. Attached to the Board's agenda is a sketch of what was approved at a prior meeting. He said that Samantha Fortier at 1420 Lebanon Road, Map 9, Lot 7-7 is located in the Farm and Forest District. She wants to add two cows. James stated that since she was asked to come before the Board before, than the Planning Board may want to review this new request. Mr. Marchese just wanted to get some feedback about this from the Board. Chairman Aleva stated that it would probably be the more prudent thing to do. Since the applicant had to come before the Board the first time than she should come back to the Board for a change. He stated that if there was any conditional use permit in the past that the CEO felt met the zoning that it would not need to come back to the Board. Anne Whitten asked if he had access to when this had come before the Planning Board the first time. James said that they came before the

Board on May 10, 2012. She stated that the original permit would be nice to have at the time of the meeting with the applicant. Chairman Aleva said that in the past, all they would get was a copy of the application with some sketches at the time of the meeting. If it was a second turnaround on a conditional use, we never had any of the background information. He stated that it would be nice to have some of the background information to review. James asked if they wanted to have it prior to the meeting. He stated that in Eliot, everyone had a mailbox at the Town Office and he would just put everything in the Board's mailbox. They would swing by and pick it up. He stated that he could also scan the information and email it out. Chairman Aleva said that he would prefer to have it emailed. Anne Whitten said that if some of the info was too much or bulky to email, than he could just let them know and the members could swing by and pick up the information. James said that he served on a Planning Board for 10 years and he always preferred to have the information ahead of time so he could review it and be prepared for the meeting. The Board agreed that this is what they would like to have done. Mark Cahoon said that he would like his put into the Planning Board mailbox and he will swing by and pick it up.

Chairman Aleva stated that he was not sure what the process would be to revise the application that they currently have for a conditional use permit. He said that we have one application that covers everything. He would like Mr. Marchese to review it at some point and see what he thinks about it. He said that we could probably check with other towns and see what they have. James said that he would look into it.

Chairman Aleva asked Mr. Marchese if he needed anything from the Board. Mr. Marchese stated that everything was moving along nicely. He stated that as he learns more about the Ordinance, he is sure that he will make recommendations to the Board to see if they want to act on them or not. Mark Cahoon asked if anybody had a list of the items that they were going to discuss at their workshops. Chairman Aleva stated that they were talking about the resource protected areas and whether they needed to come before the Board or if the CEO could take care of it.

Jon Morse stated that on the permit, it states that you have to have a survey after the foundation is poured. He was wondering if that survey just went to the homeowner or if it came back to the town. James Marchese stated that a copy of the Class 3 survey comes back to the town and it gets filed with the permit. Mr. Morse asked what the CEO would do if it didn't meet the specifications. Mr. Marchese said that if it didn't meet town specs, then they would need to make adjustments to make it work. He stated that you can't construct something that is non-conforming. This is the whole purpose behind requiring a survey. Jon Morse stated that he was approached by somebody that knew he was on the Planning Board. The person asked him to check and see what the setbacks were for an area on Randall Road. He said that he came here and reviewed the maps and he found it to be in the Residential II District. He said that the problem is that Larry Huntley wrote the permit up as being in Residential I. Residential I is 35 foot side setbacks and Residential II is 60. James Marchese asked if their property was wholly in Residential II or if the District divided the property. Mr. Morse said that it was wholly in the

Residential II district. Mr. Morse asked if the surveyor would catch an error like that and Chairman Aleva said that they should. Chairman Aleva stated that you have to remember what you are paying for with a Class C survey which is basically nothing. All they are doing is saying that this is where the box is on the face of the earth and this is where we think the property lines are. It is not a boundary survey. Chairman Aleva said that a lot of people get confused and think that the Class C survey is a boundary survey. Jon Morse stated that obtaining a Class C survey is a town regulation in North Berwick. Mr. Morse stated that in this situation, the garage is already built and being used and it is not to regulation. Chairman Aleva said that they should probably come back to the town to get a variance. A variance would be for the error made by the town code enforcement officer in the designation of the zone when the permit was obtained. He stated that if they go to sell it than there would be no title issues. Jon Morse asked if fixing an error with an error would set a precedent. He stated that the first error was when the incorrect zone was put on the permit and the second one was with the surveyor. Chairman Aleva stated that the surveyors are independent and this one didn't do his due diligence and verify the zone. Jon Morse asked James Marchese if he would check that when it came back to the town. Mr. Marchese stated that he does not have any knowledge of this particular situation and would prefer to not comment on it until he reviews the information. Anne Whitten asked, in the eyes of the law, who is really responsible for putting down what Residential zone the property is located in. She stated that when an applicant is applying for a permit, they should know which district they are in. Chairman Aleva stated that this is also the town's responsibility to verify that information to make sure that it is correct on the permit. They should not just take the word of the applicants. Jon Morse stated that the property is the last lot between Residential I and II. Chairman Aleva stated that if it is the last lot between I and II, then we need to look at our Zoning Ordinance, because in most towns there is a provision. If one overlaps the other by 50 or 100 feet there is a provision. Mr. Morse said that they did not have enough room in Residential II for 60 feet. Mr. Marchese stated that if the zones overlap on a lot than the least restrictive rules apply.

#### 4. Other Business:

Mark Cahoon stated that Hannaford is looking good. They are doing a good job with the sidewalks. He is looking forward to it being open for the convenience. Anne Whitten said that Dollar General is nice to have as well. Their prices are pretty reasonable. Jon Morse stated that he thought that the banners and flags that Dollar General currently have up were not allowed. James Marchese stated that he is working on having those removed.

Matthew Qualls asked what was going on down by Hussey on Dyer Street. He said that the roads are all torn up. Susan Niehoff told him that they are redoing the road, changing the culverts and repaving it. Chairman Aleva stated that the Planning Board doesn't review that type of work. That type of work is handled by the Public Works.

Chairman Aleva asked Mr. Marchese if there was anything coming up and he said that there was nothing at this time.

5. Adjournment:

Jon Morse motioned to adjourn the meeting at 6:55 pm. Anne Whitten seconded the motion.  
VOTE: 5-0

James Marchese  
Planning Coordinator

Respectively submitted,  
Susan Niehoff, Stenographer

Chairman Geoffrey Aleva

Barry Chase

Rick Reynolds

Mark Cahoon

Jon Morse

Anne Whitten

Matthew Qualls