

NORTH BERWICK, MAINE 03906

MINUTES OF PLANNING BOARD AUGUST 27, 2015

Present: Barry Chase, Rick Reynolds, Mark Cahoon, Jon Morse, Anne Whitten, Jim Marchese, CEO

Absent: Chairman Geoffrey Aleva, Matthew Qualls

Also Present: Michael Peverett from Civil Consultants, Dana Libby from Corner Post Land Surveying, Les Bodwell from LRB Leasing, LLC, Albert Dion, Susannah L. Baker, Michael Bacon

Vice Chairman Rick Reynolds will be the Acting Chairman tonight. He moved Anne Whitten up to full voting status.

1. Call to Order:

Acting Chairman Rick Reynolds called the meeting to order at 6:30 pm.

2. Review Previous Minutes

Barry Chase motioned to approve the minutes from August 13, 2015 as written. Jon Morse seconded the motion. VOTE: 5-0

3. Current Business:

Acting Chairman Reynolds stated that the first item on the Agenda was a Public Hearing for Susannah Baker. She is proposing Animal Husbandry (raising of ducks) at a now vacant lot on Morrells Mills Road, Map 8, Lot 87-2 which is located in the Shoreland Limited Residential District.

Jim Marchese stated that he inadvertently sent out notices to the abutters that stated that the meeting was going to be held at the Community Center instead of here at the Municipal Building. He stated that he did put a notice on the door at the Community Center to let people know that the meeting was actually here. He said that they may want to allow some extra time to allow anyone that may have gone to the wrong location to come here. Acting Chairman Reynolds stated that they would go on to the next item on the Agenda and return to this one after.

Acting Chairman Reynolds stated that the next item on the Agenda was a Sketch Plan Review for Les Bodwell, Civil Consultants Authorized Agent. It is a proposal for a 6 unit multifamily

development (LRB Multifamily) on 62 Somersworth Road (Route 9) Tax Map 1 Lot 65 in Village A District with Village C Overlay. Acting Chairman Reynolds asked Jim Marchese if he had any comments to make regarding this proposal. Mr. Marchese stated that one of the observations that he had made was that there was a recently conveyed parcel that is shown on the plan to the east of the subject parcel. He stated that he thinks that this is part of the 6 unit division and needs to be shown in its entirety on the plan. He said that it also needs to show the calculations regarding the upland area.

The other item that Mr. Marchese has is related to the driveway and Route 9. He stated that the applicant needs to contact the Department of Transportation in relation to the additional use. They need to confirm whether or not that additional use will require any changes to the driveway. Acting Chairman Reynolds stated that these changes will need to be addressed by Civil Consultants for the application for subdivision approval.

Mike Peverett from Civil Consultants stepped forward to represent LRB Investments, the owner of the property. He stated that the property is an existing 4.6 acre parcel with two existing houses on it. Both of them are single family residential buildings. He stated that there was a very recent conveyance of a 1.4 acre parcel and the deed is not yet recorded on that parcel. He stated that they can add the rest of the dimensions to that lot, show the acreage, and show the wetlands and the deductions on the plan.

Mr. Peverett stated that they are proposing to remove the two existing buildings on the property and construct a new 6 unit multifamily dwelling. The new building would be 36 x 50 feet, which would be approximately the same size as the front house. The onsite septic system will serve the building. They have done test kits to ensure that the soils will support the septic system for the 6 unit building. He stated that they have met with Maine DOT and have reviewed the site distances. He said that the site distances exceed the required site distances so they will need to apply for a driveway permit with DOT but there should be not issues with that. He stated that the driveway will be a shared driveway for the new 6 unit building as well as the recently conveyed lot.

Mr. Peverett stated that the wetlands that are shown on the property were delineated by Ken Gardner, a licensed Soil Scientist in Maine. He said that the wetland flags were located on the ground by Civil Consultants by survey. He said that they met on site with DEP and they have indicated that they have no issues with vernal pools or wetland issues. He stated that as far as DEP is concerned there are no required setbacks for the wetlands.

Mr. Peverett stated that the front portion of the property is in the Village C Overlay District and the rest of the property is in the Village A District. He said that the zoning requirements is 20,000 sf per unit. We are proposing 6 units so we would need 120,000 sf. At this point they have made the deductions for the wetlands, which were measured on the grounds and they have the USDA County soils on the plan. They don't have high intensity soils but they made the

deductions and have come up with just over 131,000 sf which exceeds the requirement of 120,000 sf. Water would be from an existing well on site. They have also done a rough drawing of a parking area with 12 spaces. He stated that the Ordinance requires 6 spaces.

Mr. Peverett stated that this is their basic proposal and is now willing to answer any questions that the Board may have. Anne Whitten asked if they had filed for a permit with the DEP when they met with them. Mr. Peverett said that they did not need any permit from them. They just met with them because there was a concern with the size of the wetlands and whether they were considered vernal pools. Anne Whitten asked if it was possible to get some sort of letter from the DEP stating that they did not have any issues with the project and Mr. Peverett stated that they could do that.

Barry Chase asked Mr. Marchese if he would consider this a commercial or if it would need to be considered Residential. Mr. Marchese stated that it would be considered Residential. Mr. Chase asked if they were going to be rented or purchased. Mr. Peverett was not sure but is pretty certain that they would be rentals. Mr. Marchese said that they would be residential rentals not commercial rentals.

Acting Chairman Reynolds asked about the question on the application in regards to identifying method of fire protection. The applicant checked off "Other" and indicated that it was to be discussed. Mr. Peverett stated that he was not sure what the requirements were for this because it doesn't appear that the town has anything in the Ordinance regarding specific requirements. Barry Chase stated that he thinks that it will need to be sprinkled because it is more than two units in one building. The property owner, Les Bodwell stated that it will be fully sprinkled throughout the building. He feels that it is worth the cost to save people's lives. Mr. Bodwell also stated that they will be rental units and not condos.

Acting Chairman Reynolds opened the Public Hearing at 6:45 pm. There was no public comment at this time. Acting Chairman Reynolds closed the Public Hearing at 6:45 pm.

Acting Chairman Reynolds stated that the next step would be to have the corrections on the driveway entrance and a permit. Anne Whitten stated that they should have an on-site inspection. Barry Chase asked if they were ready to have an on-site inspection yet. Mr. Peverett said that they were not at this point. He stated that they just wanted to present it to the Board tonight and see what the Board's thoughts were and to see what else they needed to do.

Jim Marchese asked the Planning Board if they wanted a 2 foot contour interval because it is very flat. Jon Morse stated that he didn't feel the need for it. Mr. Peverett said that they can limit the 2 foot contours to the area that they are improving. He said that they are not even dealing with a good part of the lot. The Board members agreed. Jim stated that this is considered a major subdivision and all aspects of Sections 6 and 7 of the Subdivision Ordinance need to apply. Barry Chase told Mr. Peverett to review these sections and see what was needed and see if there was anything that they could apply for waivers.

Mr. Marchese stated that he contacted Southern Maine Regional Planning to have them do a peer review on this project. He received a quote of \$1500 for the peer review. He stated that the Planning Board should request that an escrow account in the amount of \$3,000 be established to facilitate mailings, peer review and application fees. This would be due prior to the next meeting so they can have SMPDC present. Barry Chase asked Mr. Marchese if the peer review was going to be done by Underwood Engineering. Jim stated that he doesn't believe that there will be any engineering aspects to it so that SMPDC will be adequate for this project.

Acting Chairman Reynolds stated that they would go back to the first item on the Agenda which was for the Public Hearing for Susannah Baker. The applicant proposes Animal Husbandry (raising of ducks) at a now vacant lot on Morrells Mills Road, Tax Map 8 Lot 87-2 in the Shoreland Limited Residential District. Albert Dion, the realtor stated that he was here to represent the property owner, Glenn Winslow who lives in Ohio. He stated that he was just here in case there were any questions that would be directed to the owner of the property. Susannah Baker stepped forward and stated that she wanted to build a house on the lot. Mark Cahoon stated that the application said that they wanted to raise water fowl and chickens including ducks. Ms. Baker stated that they are her pets. She will be providing a building for them and it will be fenced in. They will be free roaming within a fence and not on other people's property. Barry Chase asked Jim if the house was totally separate because they are not in a Shoreland Protection District. Jim said that the house is separate. They are just here to discuss the use of the property. He stated that based on the Table of Land Uses definitions, Agriculture is the proposed use. Animal Breeding and Care is not applicable because this is not a household pet. Agriculture in the Shoreland Limited Residential District is CEO approval through a conditional use permit. Section 6.9 allows the CEO the ability to refer the applicant to the Planning Board to hear and decide upon the application. He stated that in this case, he is looking for the Board to provide the applicant with some kind of condition of approval, such as the number of water fowl allowed, the area where the pets are allowed to be, and the area where the building for the pets will be located.

Jon Morse asked if the property was cleared. Ms. Baker stated that it is currently all wooded. Mr. Morse asked her if she was going to clear the area where the building for the pets would be built. Jim told the Board members that there was a drawing included in their packet that showed the general area that they were going to build it. Ms. Baker stated that she would be clearing out the area where the pets would be and leaving the rest of the property wooded. Barry Chase asked her about the amount of animals she was proposing to have. She stated that she had 2 chickens, 16 call ducks, 10 geese and 1 Indian Runner duck. Jon Morse asked if they all lived together and Ms. Baker stated that they did and they all got along.

Anne Whitten was wondering what definition this falls under. She stated that Animal Husbandry stated that it was for animals for sale or commercial use. Ms. Baker is just keeping these as pets so it would not fit in this category. Barry Chase said that it may fit under Animal Breeding and Care. This states that it is for keeping and raising of animals including but not limited to fowl,

for any non-commercial use. This term shall not include Household Pets. Anne Whitten stated that it would not fit under Agriculture either because they are not for sale or lease. Mark Cahoon stated that he thinks it could fit under Livestock. This states that it is domesticated animals, reared in an agricultural setting for sustenance or labor. This term shall include poultry.

Acting Chairman Reynolds stated that he had a couple of concerns. He wants to know how far away the animals are from the septic system and how far away they are from the well. Ms. Baker said that they will be taking all of that into consideration when they build the area for the animals. Anne Whitten asked her if they were here to make sure that they could have the pets approved before they actually buy the property that is in question. Ms. Baker said that this was the case.

Acting Chairman Reynolds stated that they need to have a plan for the manure so that it doesn't go down to the river. Jim stated that there was some information in the Ordinance that might help the Board with this. Mark Cahoon read item 5 on Page 5-48 into the minutes:

Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of Bauneg Beg Pond; within seventy-five (75) feet, horizontal distance, of other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with on-going farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

Anne Whitten stated that they are far enough from Bauneg Beg Pond. Barry Chase stated that he knows that they are not in the Aquifer Protection District, but in that district you are allowed to have 139 chickens or roosters per acre. Mr. Chase stated that this district is more stringent than the area that they live in so he doesn't see a problem with the number of animals. Mr. Dion stated that from the road it is over 700 feet and they are about 400 feet from the wetlands.

Barry Chase stated that they should review 6.9.6.c which specifies Additional Factors for Shoreland Zones. Acting Chairman Reynolds read the requirements into the minutes:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will avoid problems associated with floodplain development and use; and
8. Is in conformance with the provisions of Article 5, Performance Standards.

Acting Chairman Reynolds opened the Public Hearing at 7:19 pm. There were no comments. Acting Chairman Reynolds closed the Public Hearing at 7:19 pm.

Barry Chase asked the applicant if she was planning on getting more animals than what she currently had. She stated that if some of her current ones passed away she may want to get others, but what she had is all she wanted for right now.

Barry Chase motioned to accept the conditional use application for 29 geese, ducks and chickens at 644 Morrells Mills Road, Map 8, Lot 87-2. The Board has reviewed Section 6.9.6 Factors Applicable to Conditional Uses and Additional Factors for Shoreland Zones per the requirements. There is a condition that the fenced area will be no less than 25 feet from the wetland and it is considered to be Agriculture, Livestock. Mark Cahoon seconded the motion. VOTE: 5-0

Barry Chase told the applicant that they approved the use for 29 animals so if they wanted more than that, they would have to come back before the Board for approval.

Acting Chairman Reynolds stated that the next item on the Agenda was a Sketch Plan Review for Bauneg Beg Land Development with Corner Post Land Surveying being the Authorized agent. The applicant is proposing a 4 lot subdivision on a 15.01 acres on Bauneg Beg Road, Tax Map 10, Lot 1 in the Farm and Forest District. Dana Libby from Corner Post Land Surveying stepped forward to discuss the proposal. He is representing the developer, Bauneg Beg Land Development. He stated that this is in the Farm and Forest District so it requires 160,000 sf lots, 300 feet of frontage, 75 feet setbacks on the front, side and rear and a shoreland setback of 100 feet. This parcel is the remainder of a 56 acre parcel that the current owner sold 20.2 acres to the northerly abutter and 8.25 acres to an LLC in the south. The topographic information shown is 2 foot. It is from Maine State GIS with an accuracy of about 4.5 inches. It shows medium density soil from York County Soils. The wetlands that are shown are general. They just went out with a GPS to make sure that they had building envelopes. These wetlands will be mapped and located by Mark Hampton Associates. Soils will also be tested on all four lots. There is a stream that runs through the property and there is a drainage swell. Mark Hampton Associates will be looking at these also to see if they meet the definition of a stream. He stated that this project is not located on a sand and gravel aquifer. There are no significant wildlife habitats in this area. He stated that it is not located in the flood zone. Mr. Libby stated that when they come back with the final plan, all of the driveway locations will be shown on the plan with all of the site distances met. All of the buildings will be sprinkled for fire protection.

Mr. Libby stated that they will be asking for three waivers. The first one is for the requirement of underground utilities. He stated that the current overhead utilities on Bauneg Beg Road stop on each end of the project so they would be coming in with the overhead utilities along Bauneg Beg Road to service these properties. Another waiver request would be regarding stone monuments. They would replace it with concrete monuments. He stated that when stone monuments get buried, they are difficult to find, but if they use concrete with rebar in it, they can

use a metal detector to locate it. The last waiver is in reference to Section 10.6.d where there is a requirement because there is a stream running through the property for storm water management. They are requesting a waiver for this because all they are doing is constructing single family homes. There are no roads.

Mark Cahoon asked how big each of the lots were. Mr. Libby stated that they are all about 4 acres each.

Jim Marchese stated that the lot size for that district is 160,000 sf. He said that if you look under the definition for lot area, it says, "The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.". He stated that if you look at the plan, there are several lots that include wetland so those areas will need to be delineated from the plan. This means that the lots will need to be reconfigured.

Jim also stated that per the Resource Protection District Map, there is a Shoreland Stream Protection District that starts at the confluence of two streams on the subject lot. He stated that he does not see where that is on the plan. Mr. Libby pointed it out on the map and stated that it would be added to the plan.

Mr. Marchese stated that based on the configurations, it is unclear how much of the remaining land was divided. Mr. Libby stated that in their packet, the tax map showed each lot. Barry Chase asked when the sale was done and Mr. Libby said it was at the beginning of the month. Mr. Chase said that it needs to be considered part of the subdivision because the sale was recent. Mr. Libby said that they were both exempt lots so they shouldn't be considered part of the subdivision. Mr. Libby stated that the first sale was to the LLC and it abuts Lot 4. Anne Whitten asked if it was a sale to the abutter with a building or sale to an abutter without a building. Mr. Marchese stated that sale to the abutter was just land that they take. He said that he sees that it is not part of the subdivision and that the look back is 5 years. Any land sales within the past 5 years are part of the subdivision. He stated that they can get clarification on that from SMPDC.

Jim stated that they will need to have \$3,000 to put in an escrow account for expenses.

Mr. Libby stated that once they have everything mapped, they can come back with a final plan. Acting Chairman Reynolds stated that they will need to do an on-site visit. Barry Chase stated that he thinks that the wetlands need to be delineated and the lots may need to be reconfigured. He thinks that he should come back with the preliminary plan and then they can set a site walk.

4. Other Business:

Jim stated that there has been some concern regarding the Shoreland zone and hazard tree cutting. This will be discussed at a later date.

Barry Chase stated that a lot of things being done in the Resource Protection zone such as every addition to a building or front porch permit has to come before the Board. He feels that it is a waste a time for both the Board and the applicants. He would like to see this become a CEO and then if Jim would have any issues with the application, than he could bring it before the Board.

Acting Chairman Reynolds asked if there had been some update regarding editing the permitting applications. Jim said that he had a Residential Permit Application. Barry Chase asked if they were going to have a separate Conditional Use permit application and Jim said that they would. Anne Whitten stated that she went to all of the towns to see what they had for applications and she didn't see where they had anything too different.

Mark Cahoon asked Jim how long Hannaford was allowed to keep up their sign advertising that they were now open. Jim will look into it. He stated that Hannaford has been very cooperative with any issues that have come up so far.

5. Adjournment:

Barry Chase motioned to close the meeting at 7:55 pm. Mark Cahoon 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