

NORTH BERWICK, ME 03906

MINUTES OF PLANNING BOARD OCTOBER 8, 2015

Present: Chairman Geoffrey Aleva, Mark Cahoon, Rick Reynolds, Jon Morse, Barry Chase, Anne Whitten, Matthew Qualls, Jim Marchese, CEO

Also Present: Harvey Paul, Nigel Paul, John Roberts

1. Call To Order:

Chairman Geoffrey Aleva opened the meeting at 6:30 pm.

2. Review Previous Minutes:

Anne Whitten had a few corrections. In the first sentence under the section Review Previous Minutes, it does not state which meeting Mark Cahoon was absent from. The sentence now states that he was absent from the 9/10/15 meeting. Also, in the first paragraph under the Current Business section, the second sentence currently reads, "The project is to construct 24' x 24' garage...". It should read, "The project is to construct a 24' x 24' garage...". On Page 2, in the third paragraph, the first sentence has an error. There should be a "," after the word "Officer".

Rick Reynolds motioned to approve the minutes of September 24, 2015 as amended. Mark Cahoon seconded the motion. VOTE: 6-0 Abstain: 1

4. Other Business: District Boundary Exemption

Jim Marchese stated that there is a business owner in a neighboring community that also owns property in North Berwick and he would like to expand his business. He cannot expand his business at this time because his property is in the Residential District in North Berwick. Jim stated that he was trying to figure out how to suit the needs of everyone and he put together this information for an exemption. It would allow the town of North Berwick to provide a buffer so that uses in neighboring towns can expand if they own property in North Berwick. Currently if a business owns property on the town line they can't expand into North Berwick. Jim said that based on these revisions to the Ordinance, he thought that as long as they provide a suitable buffer between any potential residential use that it would be reasonable to allow them to expand. Jon Morse asked how much land would be left once the new construction is done. Jim said that he was just asking for a very thin sliver. He said that the use cannot expand more than 250' along the existing roadway frontage in our community. He stated that the total use cannot expand more than 50%. If someone has a business in Berwick and they want to expand it, they can't have the majority of it in North Berwick because it is not allowed. They can only expand it

in its totality by 50%. Jim is asking the Board if they are in favor of moving this Ordinance forward or if they are not in favor of it at all.

Chairman Aleva said that he thought it was a good idea. He stated that most towns have some provision in place with neighboring communities. He said that it should definitely be a conditional use permit so they can look at it on a case by case basis. Matthew Qualls agreed. Anne Whitten stated that it needs to be either allowed or not allowed. If it is allowed there needs to be the option for conditions to be applied. She said that Rick Reynolds asked how other towns handled this situation. Chairman Aleva said that they have a provision where you can overlap but they need to go to the adjacent town's Planning Board for review and comment. In this case, the project is on Route 4 and it is all commercial space on the Berwick side. When you cross into our town, it is Residential so there is no intermixing of business development to residential use along that corridor.

Chairman Aleva stated that Mr. Marchese had come up with a list of provisions that would protect the neighbors in our town while still allowing there to be expansion of a business from an adjacent town to property that they already own. He stated that this is something that they would have to go through the process and meet with the Selectmen, have a Public Hearing and have it added to the Warrant for the Town Meeting for the people to vote on. Chairman Aleva said that he thinks this is something that they should pursue. Rick Reynolds agreed but said that they should probably expand on some of the conditions.

Anne Whitten asked Jim if he had spoken to Dwayne Morin about it. Jim said that he had spoken to him. Anne asked what he had said about it and Jim stated that Dwayne wanted to see what the Planning Board thought about it.

Matthew Qualls asked what other options they might have. He asked about changing the zoning in that area from Residential to Commercial. Chairman Aleva said that this would be considered spot zoning and that is not usually a good idea. Matthew asked if this had ever been done in the past. Chairman Aleva stated that it had not. He stated we have had zoning areas changed for certain uses. The last one was the change in the downtown area to allow the businesses like Dollar General and Hannaford to come into the Village area. Jon Morse asked if there was any other area in the town that has this same kind of circumstance like by the Wells line. He is wondering how many more times this could come up. Chairman Aleva said that it could come up on Route 4 coming from Sanford and from Route 9 going into Berwick. Mr. Morse stated that he doesn't feel it is right to punish a landowner from another town if he wants to expand his business because the other town is not conforming to do so. Anne Whitten stated that she owns land in the towns of North Berwick and in Sanford. The Town of Sanford gave her permission to put in a camper to stay for the summer. She had somebody that wanted to come into North Berwick to visit, but the previous CEO said that she could not. He had told her that because the land is in the two towns, they need to follow the guidelines for the most restrictive town. Chairman Aleva said that he didn't think that was the case. Jim Marchese said that he would check into that.

Anne Whitten stated that she has no problems with looking into it further but she doesn't want to see a neighbor in our town be hindered by a business from another town. Chairman Aleva stated that what Mr. Marchese had put together was a good start. He indicates that the use cannot be closer than 250' from an existing residence and have a 100' vegetated buffer. He has a limitation as to how much they can expand. Anne asked if they would have any say in regards to sound. Barry Chase said that if it is conditional use, then we would be able to make any necessary restrictions.

Chairman Aleva said that they should have Jim go back and look at our zoning map and see what our abutting zones are for the neighbors on those corridors. He can check on what their zones are. This will help us to fine tune what Jim has started with the limits on uses.

Rick Reynolds motioned to pursue the suggestions on the development of the District Boundary Exemption and placing them into our Ordinance. Jon Morse seconded the motion.

Jon Morse asked Jim if the figures that he came up with in his recommendation was something that he had seen somewhere else before. Jim said that that it is something that he came up with as a starting point and it can be revised. Chairman Aleva said that it was a good start. It provides a great buffer and some limitations.

VOTE: 5-0 The 2 alternates were also in agreement.

3. Current Business:

3.1 Signs 5.2.6

Jim stated that he put this on the Agenda to update the Board about the sign ordinance. He said that the Maine Municipal Association is working on a court decision and how it impacts the sign ordinances. We will need to put any changes to our sign ordinance on hold until they make a decision. Chairman Aleva asked what they were looking into. Jim said that there have been some recent court rulings regarding signs and they are large and complex. Maine Municipal Association is reviewing this information to see what can be changed.

3.2 Resource Protection

Jim stated that this topic was tabled at the last meeting. He is waiting for more information from the Board on how to proceed with this. Barry Chase stated that this was the one that they wanted to make to change items from "CU" to "CEO". Chairman Aleva said that this would allow the applicant to go to the CEO to make the decision without coming to Planning Board. If the CEO does not feel comfortable in making a decision, he can then have the applicant come before the Planning Board to have them review. Chairman Aleva stated that this is something that they would have to meet with the Selectmen, have a Public Hearing and have the town vote on it at Town Meeting.

Barry Chase asked Jim if he could provide them with some verbiage on what they need changed. Jim said that he just went through the Land Uses table and made edits to that. Mr. Chase asked if they were talking specifically about Resource Protection. Anne Whitten stated the Shoreland Limited, Shoreland Stream and Shoreland General were close to the water. Mr. Chase stated that the ones that are currently marked “NO” will remain “NO” and the ones marked “YES” will remain “YES”.

Chairman Aleva said that they should go to Page 4-11A which shows the Land Uses and go through each one. Anne Whitten said that she would like to look on the map and see where the Shoreland Protection zones are located.

Chairman Aleva read the definition of Shoreland zone:

The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river, within 250 feet of the upland edge of a freshwater wetland; or within one hundred (100) feet of the normal high-water line of a stream.

He went on to read the definition of Resource Protection but it is not part of our Ordinance. The Board members reviewed the maps that were available to them to see where the Resource Protection area is located. Chairman Aleva said that they should work on what the definition of Resource Protection is. Anne Whitten said that it looks like Resource Protection also encompasses Shoreland Limited and Shoreland Stream in some areas.

Chairman Aleva referred the Board to Page 4-1 which shows that we have a Resource Protection Overlay District, but it doesn't have any dimensions. It also doesn't state what the limits are. Anne Whitten asked if they would have to follow whatever the State has in place. Chairman Aleva did not know. Matthew Qualls said that in Article 2.3.g it lists some definitions and restrictions. Anne Whitten read what the State of Maine Resource Protection definition is that she looked up on the internet. It reads:

Municipalities must map the following areas within a 250 foot Shoreland Zone as Resource Protection Districts if they are undeveloped, 100 year flood plains on rivers, areas adjacent to fresh water wetlands, areas with 2 or more acres of steep slopes, areas with 2 or more acres of wetland. Limited Residential Districts are those that are suitable for residential only.

Matthew Qualls stated that some of those are listed in Article 2.3.g in our Ordinance. Anne Whitten said that our Resource Protection District sometimes goes outside of the 250' buffer. Chairman Aleva said that it was if it was in a flood plain or above an elevation. Anne stated that if anything would need to be changed, it would be outside of that 250' buffer.

Chairman Aleva started going through the Resource Protection section to review any of them that are currently marked “CU”. The first one is for private recreational facilities including parks, playgrounds, golf courses, driving ranges, & swimming pools, but excluding

campgrounds. He asked the members if they wanted to change this to CEO. Other members stated that they should probably start from the top and do all of the areas under Resource Protection. The first one is Agriculture: Non-livestock, nurseries and gardening. This is currently "CEO". Jon Morse stated that this should be changed to "NO". He said that you can't put human waste in the water so you shouldn't put livestock waste in the water. Jim Marchese stated that if the landowner had means of implementing and containing the runoff from his site, then why shouldn't they be allowed to have agriculture or livestock within 50' feet of a stream. He said that as long as they are providing a means of control. Mark Cahoon asked who would enforce that they were doing what they were supposed to. The Board agreed that it should stay as "CEO".

They went back to the Private recreational facilities including parks, playgrounds, golf courses, driving ranges & swimming pools, but excluding campgrounds. Chairman Aleva said that he believes it should stay as "CU" because this is something that is typically larger and may need to be reviewed by our outside peer consultants for things such as drainage review.

The Board continued to review what they should change each one to and discussed the reasons why they should either stay the same or be changed to something else.

Matthew Qualls suggested that they review the Residential section. Chairman Aleva stated that for Single family dwelling in the Resource Protection it is "NO", in Shoreland Limited Residential it is "CU" and in Shoreland Stream it is "NO". The reason that it is a "CU" in the Shoreland Limited Residential is because of the distance from the water. Mark Cahoon said that he thinks that it should be a "CEO" instead of a "NO" under Resource Protection. Chairman Aleva stated that it had to be a "NO". Rick Reynolds stated that they had the zone maps in the Comprehensive Plan that lists the protected zones and where the animal habitats, wetlands, rare animals, forest resources, watersheds, aquifers and flood plains.

Barry Chase stated that they should probably just focus on the ones that they are always talking about which is Shoreland Limited Residential. This is the area where you can have a home and a garage and other things like that. If it says "CU" we should change to "CEO". Jim Marchese said for them to remember that this zone is east of Morrell's Mills Road.

Jim Marchese asked if he could make a recommendation that could eliminate about 80% of these conditional use permit is to change it in two places. For the Single family dwelling under Shoreland Limited Residential, change it from a "CU" to "CEO". Under Miscellaneous section for the Structures accessory to uses which are similar to permitted uses, change from "CU" to "CEO". He said that if they later decide to add a deck, a garage or something like that, he can review and if he feels the Board should review, he can refer the applicant to them. He stated that they could start with that and see how it works.

The Board agreed to change the following:

Under the Residential section, Single family dwelling in the Shoreland Limited Residential, change from “CU” to “CEO”.

Under Miscellaneous section, Structures accessory to permitted uses in the Resource Protection, Shoreland Stream and Shoreland General should be changed from “CU” to “CEO”.

Chairman Aleva feels that this would help cut down on some of the things that come to the Board and the CEO could handle.

4. Other Business:

Barry Chase stated that there is a lot of talk about an amusement park being built in Sanford. Matthew Qualls heard that it had just been approved. Barry feels that we need to think about things like increased traffic and other things that would affect the town.

Matthew Qualls stated that he was going by Pratt & Whitney the other day and saw that there were some kind of pods in the parking lot. It looked like they were unloading stuff and putting it away after a certain amount of time. It looked like it was a yard sale or something like that. He said that he had never noticed it before.

Jim said that the Bodwell Application will be back before the Board at the next meeting. He stated that the Bauneg Beg land development is also moving forward. He said that the Carr Brown mobile home park for 39 units could potentially be coming back before the Board soon.

He stated that FEMA has given the Town two discs of their new maps. They are available here if they want to look at it. Chairman Aleva asked Anne if they could be uploaded onto their website. Jim said that they are preliminary maps so it should not be posted for the public to see yet.

Jim also passed around the updated Building Permit Application forms for the Board to take a final look at it before he starts using it.

5. Adjournment:

Anne Whitten motioned to adjourn the meeting at 8:05 pm. Rick Reynolds 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