

NORTH BERWICK, MAINE 03906

MINUTES OF PLANNING BOARD APRIL 10, 2014

Present: Chairman Barry Chase, Anne Whitten, Mark Cahoon, Rick Reynolds, Jon Morse, Lawrence Huntley, CEO

Absent: Shaun DeWolf, Geoffrey Aleva

Also Present: Lionel Ewers, Pam Ewers, Pam Brezak, Carl Brezak, Kim Jacques, Michael Jacques, Patricia Dube, Mike Nidosen, Sid Hall, Stan Rice, Chris Mende, Laura Alves, David Alves, Joseph Pelletier, Lindsay Badger, Donald Royal, Sonja Royal, Diane Perry, Brian Perry, Laurienne Missud Martin, Lorinda J. Hilton, Scott Morse, Larry Leblanc, Melinda Paker, Jen Hickey

1. Call to Order:

Chairman Chase opened the Planning Board meeting at 6:34 pm.

Chairman Chase moved Jon Morse and Anne Whitten to full voting status.

2. Review Previous Minutes:

Anne Whitten stated that on Page 2, Paragraph 2, the second sentence reads, “He explained that has been ...”. She stated that it should read: “He explained that he has been ...”. On Page 4, Paragraph 1, the last sentence reads: “Joe: Adult male, 18 plus. They also have rooms with American with Disabilities rooms in place so we will be handicapped accessible with a room available”. It should read: “Joe: Adult male, 18 plus. They also have a room available for people with disabilities.”. Also, on Page 4, Paragraph 4, the first sentence reads: “Mark Cahoon if they do...”. It should read: “Mark Cahoon asked if they do...”. Also the last sentence in this paragraph reads: “Joe: With his law enforcement background he has experience to do screening.”. It should read: “Joe: With my law enforcement background I have experience to do screening.”. Also on Page 11, Paragraph 2, the second sentence reads: “Lindsay she believe a great deal of them do.”. It should read: “Lindsay said she believes a great deal of them do.”. Also on Page 13, the last paragraph, it reads: “Lindsay she believe a great deal of them do.”. It should read: “Lindsay said she believes a great deal of them do.”. Also on Page 13, for the last question that asks, “Why this location? The answer was: “Yes. This was the ...”. The word “Yes” needs to be removed.

Rick Reynolds motioned to accept the minutes from March 27, 2014 as amended. Jon Morse seconded the motion. VOTE: 5-0.

3. Current Business:

Chairman Chase stated that the first item on the Agenda was the applicant Recovery Maine Inc. with a proposal for substance abuse treatment services at 33 Main Street (Map 18, Lot 101). Joseph Pelletier and Lindsay Badger, co-executive directors of Recovery Maine, Inc., stepped forward to state that they are seeking to open a Restoration House at 33 Main Street. They started by clarifying some of the issues that the Planning Board had brought up at the last meeting. Lindsay Badger started first with the following:

1. What is the reason that a transitional home is needed in York County? She stated that it will increase the likelihood of success for many struggling with addiction and offer additional support from professionals and the development of skills. It will also help to establish a healthy support network for individuals.

2. What are their qualifications? They have provided the Board several letters of recommendation from other people in this field that they work with that can speak of their qualifications. These include experienced licensed alcohol and drug clinicians, clinical supervisors, Executive Directors of Maine Pretrial Services and a Superior Court Justice. There is absolutely no question that they are both highly qualified to run this program effectively.

3. Drug Court – They are trained in several evidence based programs. Some of these include Prime Solutions, Prime for Life, DEEP, Differential Substance Abuse Treatment (DSAT), Seeking Safety and Thinking for a Change. Besides all of this, they possess other skills that pertain specifically to dealing with people who are struggling with addiction. She went on to describe the typical day for a Drug Court client. Every morning, they wake up at 6:30 Monday through Sunday, including holidays. They must call the pre-trial line, which is Joe's cell phone to see if their assigned color is called. If it is, then they have less than one hour to get to the testing sight and provide a urine sample. Not only do they have them complete a ten panel test of your typical drugs like benzoates, opiates and heroine, but they also administer at random, a urine test for alcohol that goes back 72 hours. In addition to this, they have a strong awareness of other substances that can be bought at stores similar to K2 spice and other over the counter abusive substances. They can recognize the signs of people using these substances and can submit samples to be tested for these. They are tested at random 2-3 times per week. After completing drug testing, clients see Lindsay 6 hours a week for DSAT treatment. If they do not show up for treatment, they are sanctioned by the Drug Court team. The substance abuse treatment attendance for the DSAT program she runs is excellent. The treatment modality as well as other modalities mentioned earlier will be available to individuals seeking intensive outpatient treatment services to residents. In addition to attending treatment drug testing, clients attend case management services one time a week or go to Alfred Superior Court once a week. They attend five AA meetings every week and report to probation as required. All clients are expected to have a job and must do so in order to receive phase advancements in the program. The treatment team consists of one treatment provider in York County, which is Lindsay, one

case manager, which is Joseph Pelletier, a Superior Court Justice, a defense attorney, probation officer and district attorney. Every Friday morning, they get together at Alfred Superior Court from 9-10:30 to discuss the progress for the week for all individuals in the program. The max capacity is up to 35 pending and active. Those that are making significant lifestyle changes, are recovery oriented and follow through with goals will receive verbal recognition from the Judge and perhaps other rewards like an occasional sleep in day or gift card for gas money. Those that are making high risk choices are sanctioned. An example of this is a missed color call, which is for a random drug test, is considered a positive drug test which results in automatic jail time.

4. How does this fit into what we are proposing to do? They understand the importance of creating a safe therapeutic environment that is strength based. It is their job to assist clients with identifying skills and linking them to services to achieve growth and independence. They also understand the importance of personal accountability and that consequences must occur immediately following a decision that is counterproductive to achieving their goals. If they relapse, they are out. If they make high risk choices such as violating curfew, the staff will have a meeting to decide the next course of action which may include house arrest for 30 days. The idea is to reward good behavior that is helping to achieve goals and offer swift and immediate consequences for choices that are counterproductive to goals. They do this every day with clients that suffer the most severe levels of addiction including both physiological and psychological dependence. The success rate in Drug Court nationwide is 45%. The Drug Court success rate in Maine is 65%. The success rate for people coming out of jail, hospitals, and rehabs are even lower with the number one contributing factor for relapse being the lack of structure during the transitional period. Their program will bridge this gap. They realize that there is a Cumberland Farms right across the street. Alcohol is everywhere. When people want to use, they will. The idea is not to ship everyone to a remote location, never to be seen again, but rather teach people skills to deal with every day temptations.

5. Food: They will be working with a nutritionist who will assist the residents with cooking skills. They will provide some health snack options on a regular basis. They prefer to not provide the food and instead, give people the individual choice of what and when to eat, as many of them will have different schedules. The State regulations are a little gray in this area and they have already put in phone calls to the Office of Substance Abuse and Mental Health programs to get clarification. If they need to provide food for licensing, they will do so.

6. Work: People who struggle with addiction are employed. Every single one of their Drug Court clients are required to have a job or find one fast. They will not discriminate against anyone who has a disability. However, graduating from the University of Maine at Farmington, Lindsay has a background in vocational rehab, where she spent a great deal of her internship at a place where people with traumatic brain injuries who were in wheelchairs with little to no verbal skills, were gluing the heels on shoes and sewing buttons on clothes at the local thrift shop. They will encourage their household members to find meaningful work or volunteer opportunities to give back to the community.

Joseph Pelletier stated that the packets that he had for the Board members tonight included a lot of the things that the Board had requested at previous meeting. They did obtain a Fire Sprinkler System Permit. It was designed and approved by the State Fire Marshall's office. Because of the nature of the building and the way that it is constructed, they had to design a full NFPA 13 system, which is a full commercial sprinkler system.

They also consulted with Manypenny/Murphy Architectures to review their plans and do a site review. They determined that the plans that they submitted are a viable plan for housing 16 people with some recommendations for sizing on two of the rooms, which have been modified to meet IRC code 2009. Based on the architect's review, they decided to develop under IRC code instead of commercial code. The architect also included supporting documentation that he used to make his determination. They also determined that what they are proposing is categorized under congregate living facility, which means it is basically a rooming house. Mr. Pelletier stated that congregate living is defined as more than 5 occupants but not more than 16. He stated that there are a number of ways that a determination can be reached regarding the number of people that can be housed in a building. The determination that Manypenny/Murphy came up with was based on a functional floor plan, on a tour and a review of the plans and the room size. That, combined with the Fire Marshall's determination of the fire safety plan for the building, provide a good argument that the building can support 16 people living there. Mr. Pelletier stated that the town attorney's letter addresses only one component that he faced in his conversation last week and that was that the building was grandfathered for a 2 family structure. Given that each unit can house two families and a family is defined as 5 unrelated individuals, this would work out to 20 people under that roof. They are asking for 16 plus daytime employees. Mr. Pelletier stated that he reviewed the letter and response from the attorney. Based on the information that was provided to him, he made a determination that the building would support 10 residents with two 24 hour staff and two day staff.

Mr. Pelletier asked a couple of questions.

1. If they acquiesce to the Attorney's decision and the Board is satisfied with the decision for us to start with the disagreement, is it open to appeal to add rooms later?

Larry Huntley stated that there would be no appeal to this. The only appeal that they would have is to appeal Mr. Huntley's decision as an administrative appeal stating that he did not interpret the ordinance correctly.

2. Based on Mr. Pelletier's explanation of the permitted capacity of that building, could he have the Board's thoughts on his presentation?

Mr. Huntley stated that his explanation would be correct if it was two residential units, but they are asking for a residential unit and a commercial unit. If they did only the residential unit, than they could have the 16 residents. However, if they do it as they have presented it with professional offices on the first floor and residents on the second and third floor, than they would only have one residential unit which is one family. Mr. Pelletier stated that there is actually a very small area of the first floor that is being used for offices and conference rooms. The main

structure of the house, the first floor is inhabited by the residents so they are talking about three floors of residency. Mr. Huntley stated that they are only talking about two uses. He stated that a Zoning Ordinance allows a certain amount of uses per land area. This land area is 10,900 square feet which is a quarter of an acre. If you look up the town's land tables, a quarter of an acre supports one use in this downtown area. The two uses that are in that building now are grandfathered as to their uses. Mr. Huntley stated that they were asking for a residential use which is the residents in the program and they are asking for a commercial use which are the offices on the first floor. He told Mr. Pelletier that they are following the ordinance but this allows them only the two uses to deal with. Mr. Pelletier asked if there were two units there that were combined and then somebody wanted to start a home business, could someone who is licensed to do so hang a shingle up and provide counseling or legal advice? Larry stated that it would be a conditional use permit as a residential accessory which would be a Planning Board decision. Larry stated that he would probably say no and he would get attorney's recommendations on that situation.

3. Does the Planning Board have within their power to override the capacity finding of the town attorney? Larry stated that the town attorney has no decision. He just makes recommendations the same way that Larry does. The Planning Board has the right to override anything they say. Chairman Chase stated that they cannot, however, override what the Ordinance states.

Mr. Pelletier went on to show the changes in the plans per the review by Manypenny/Murphy Architecture. Their concern was the room size and that no room can have any less than a seven foot horizontal measurement based on IRC 2009. They changed the office size to reflect 7 feet. The other issue was that the third floor is considered a habitable attic and under those requirements for life and fire safety, there only need be life safety or rescue windows, which there are. It also needs one means of vertical egress to the floor below, which they also have met this requirement. Larry asked him where the vertical access was that he was talking about. Mr. Pelletier stated that the vertical egress was the interior stairway going to the second floor. Mr. Huntley asked what the escape route was from there. Mr. Pelletier stated that the escape route was a stairway to the first floor or to the rear fire escape on the second floor. Mr. Pelletier stated that in order for a vertical egress to be viable, it needs to be accessible and no greater than 50 feet. Mr. Pelletier stated that these were the only changes other than the ADA five foot radius circle in the first floor bathroom. He enlarged the room size on the first floor to reflect the five foot radius capacity and expanded the access to the toilet to reflect 4'8", which is the minimum distance to the knee wall of the toilet. Larry asked him how wide the stairway was that goes up to the second floor. Mr. Pelletier stated that it is currently reflected to be 36 inches within the house. However, it has an open stairwell and they will be widening that stairwell to almost 37 inches. He stated that the stairs are currently out of compliance to be state licensed because the treads are only 8 inches and the rise is a quarter over. They will have to put new stairs.

Chairman Chase asked Mr. Huntley what he thought about the architects recommending that it be classified under IRC instead of Commercial code. Larry stated that the proposal is actually for a recovery home and that is considered to be residential so that it works.

Chairman Chase asked the Board how they would feel about getting Southern Maine Planning & Development Commission involved. Larry Huntley stated that if they want to get them involved, they will need to get an escrow payment from the applicant. Anne Whitten asked what they would provide for them and Larry stated that they would review everything and submit a Findings of Fact. Larry stated that they would make sure that everything was covered. Chairman Chase stated that he would feel more comfortable because there are so many different agencies involved. Rick Reynolds agreed and stated that they really need to clarify how many people can live there. Larry stated that the first thing that they have to figure out is if this use is acceptable in this zone and then you can figure out what is going to be done with this use. Larry stated that they have applied for a certain thing in that zone and the Planning Board has to agree that that thing fits in that zone. There was further conversation among the Board members regarding obtaining the services of SMPDC. The all agreed that they would like to have them get involved.

Rick Reynolds motioned to have the services of the Southern Maine Planning & Development Commission (formerly SMRPC) be obtained to be funded through an escrow account by the Town Manager and the applicant of \$3,000.

Joseph Pelletier asked if this meant that they were asking them for \$3,000 and they told him that they were. Chairman Chase stated that this process was just like having the plans reviewed by an engineer. Larry stated that the applicant provides an escrow account of \$3,000 and the Planning Board will ask the Southern Maine Planning & Development Commission to do their Findings of Fact. If the amount they would charge would be over \$3,000 the Town would not ask for any more from the applicant. If the charge ends up being less than the \$3,000, then the applicant would be refunded the remaining balance.

Joseph Pelletier stated that he feels that the Board can make a decision based on all of the information that they have been provided. He is protesting this additional review. Mr. Huntley told him that per the Ordinance, the Board has option to request an escrow for any outside reviews that they deem fit. Anne Whitten stated that this review is good for both sides and helps give clarity to the situation.

Anne Whitten seconded the motion.

Mr. Pelletier just wants to be on record that he is protesting the need for the review. He stated that there are many sober house and congregate aggregate living facilities all throughout the state that have many more people occupying the facilities than what they are proposing.

Larry stated that since this is a small town, they do not have a planner. A lot of towns do have their own planners and they do what Southern Maine Planning does. Mr. Pelletier stated that he did not know why they were responsible for paying for it. Mr. Huntley stated that it is because it is the applicant, not the Town that is making the proposal and the Board needs review help so that is why they have to pay. Mr. Pelletier stated that he understood.

VOTE: 3-2

Chairman Chase told Mr. Pelletier that he will need to get in touch with Dwayne Morin to get this started. Mr. Pelletier asked what the time table was for getting them involved and getting

this finalized. Larry stated that as soon they pay the money, he can contact the Commission and get them up to speed with everything. Mr. Pelletier asked if there was anything else that the Board would need from them to allow the Board to make a decision at the next meeting. Larry stated the he thinks that the Planning Board needs to do a site walk. Chairman Chase stated that it would probably be another two meetings. Larry stated that the next meeting would be to clean things up and the following meeting will be the findings of fact.

The Board and the applicant set up a site walk for Wednesday, April 16, 2014 at 5:00 pm.

Jon Morse asked the applicant if he had received a letter from the Pastor of the church regarding the parking. Mr. Pelletier stated that the Pastor had to get approval from the Deacon in order to go ahead with that. The Pastor stated that he did not think it was going to be a problem since they are currently using 33 Main Street's parking lot for overflow parking. Anne Whitten stated that they still need a letter from the Rescue and Fire departments and Mr. Pelletier said that he would provide those.

Anne Whitten asked them where their testing site was for the urine tests that they need to supply. Mr. Pelletier stated that there is one in Biddeford and one in Sanford. She asked who gave the tests and he stated that he performed the testing. She asked how they manage the residents that are on house arrest. Mr. Pelletier stated that they are managed by supervision either by local police department or probation officers. There are certain stipulations contained within a house arrest agreement. They cannot leave the house except for treatment and employment or medical conditions that need to be addressed. Lindsay stated that if they had somebody that had no legal involvement or no probation and they kept violating curfew to what we agreed to in the residential program, then they decide as a team that the person loses the privilege of leaving whenever they want and are on house arrest. If they leave, then it is grounds for dismissal from the program.

Chairman Chase stated that the next item on the Agenda was for the applicant Bauneg Beg Land Development LLC. They are proposing for a 6 lot subdivision on Bauneg Beg Hill Road, Map 10, Lot 1.

Chris Mende from Civil Consultants stepped forward to discuss the proposal on behalf of the applicant. He stated that the property is about 43 acres. He stated that just under five years ago this lot was subdivided and part of it was sold off. He stated that he has two plans to show the Board which are very general in concept. They have done limited work on the property. They have done a boundary survey. Everything else that he is showing on the plans was compiled from US GS quad maps and the 20 foot contouring. The soils were compiled from the US Soil Conservation Service and York County Soil Survey so they are probably representative of what is there, but they have not done soil testing yet. He stated that the boundaries are correct and exact.

He stated that they would like to make an application for a subdivision. The property has adequate road frontage to service six lots, all having 300 feet of frontage or more. There is more than enough area to meet the zoning requirements of 160,000 square feet per lot and there is about 18 acres left over. This would be a traditional subdivision.

The other plan that they are considering is a cluster subdivision concept. He stated that in the North Berwick Subdivision Ordinance, the only place that it mentions cluster subdivisions is in the definition section. There are no standards. However, in the Zoning Ordinance, there is a section that addresses Plan Unit Development. Under this section, basically all provisions of the subdivision ordinance with regards to lot size, road frontage and other things are waivable by the Planning Board. Other than that, there is not a great deal of guidelines except for the net development acres is developed by the soils type. One of the attractive features to at least consider a cluster subdivision is that they might be able to do something with 2 acre lots and 200 feet of frontage. The owners of the property have expressed that if they could get 7 or 8 lots instead of 6 with the cluster subdivision, which would be great. There would be greater open space with the cluster subdivision.

One of the things that they would need clarification on is the classification of one of the streams on the property. Under the definition in the Ordinance, it would appear that this would be a stream that would have a stream protection buffer around it, but it is not mapped on the town maps as that type of stream. This may require some investigation. There is an area that is potentially resource protected based on the US GS maps due to steep slopes in excess of 4 acres. Mr. Mende asked the Board if they had any questions. Chairman Chase asked what the pink and orange areas represented on the site plan. Mr. Mende stated that they are soil classifications.

Rick Reynolds stated that his issue would be with the septic systems, because of the hillsides and there being a lot of ledge there. He doesn't feel that 2 acres would be enough to have your own water and septic systems. Mr. Mende stated that it was totally at the Board's discretion as to whether to even entertain a cluster subdivision. His first question before the Board is whether they would even consider a cluster subdivision, and if they would, what would be required to support that application in the way of studies, mapping and other things like that. Larry stated that because of the Unit Plan Development, the whole subdivision has to be provided with community water and septic and he doesn't feel that it is conducive to this type of terrain. Mark Cahoon stated that he would not recommend it on 2 acre lots. Jon Morse agreed. Chairman Chase stated that he would personally be open to it if they could show him how it would work and look. Jon did state that he would entertain it also if he could see something. Mr. Mende stated that he does not want to put a lot of time and effort into that concept if the Board would not even entertain the possibility.

Anne Whitten asked if they should see a plan than do a site walk or do a site walk first? Chairman Chase stated that he should come up with a plan and then they would do a site walk. Mr. Mende stated that another consideration from their perspective is if they do a traditional subdivision plan, they would like to ask the Board for a waiver and say, "Are we going to have

to do 2 foot contours, 5 foot contours or 10 foot contours?” Once that decision is made, they will need to decide if they will need to provide topography and soils testing on certain areas where it will be conservation land or if they will only need to do it on the front part of the lot. They would certainly have to do soils mapping to support what kind of wetland lineation and soil testing for septic systems. Jon Morse asked him what was currently on this lot. Mr. Mende stated that it is all hemlock and pine trees. There is an old camp on the property.

Larry Huntley stated that one of the new ordinances that was just passed has to do with in-law apartments. If you do a cluster subdivision, then you are limiting yourself to a septic system installed for that cluster. It would have to be written in the subdivision bylaws that they would be limited to single family residence. Mr. Mende stated that it would probably depend on how the system was designed. Chairman Chase asked if it could just be a note on the plan and Larry stated that it would need to be, but everyone would have to be notified when they buy that lot of the situation.

Mr. Mende asked if the Board would consider the waivers that he mentioned earlier if they did the traditional subdivision. Chairman Chase asked how the amount of property that may not fall into the density would be determined if it is not mapped. Mr. Mende stated that the only thing that limits density for lot sizing and subdivision ordinance are resource protection areas, stream protection areas and if there are any sustained slopes that are over 4 acres. Chairman Chase asked about the soils. Mr. Mende stated that this does not have anything to do for considering density.

Mr. Mende stated that when they come back in with a plan they would need to provide some sort of soils mapping and contouring. He asked the Board what they would like to see for contours such as 2 foot or 5 foot. Chairman Chase stated that 5 foot contours should be fine. The other members agreed. Larry told him that he should probably give the Board a list of the waivers that he would like to have and then they can vote on them. Mr. Mende stated that he would like to propose 5 foot contours on as much of the lot as is needed to substantiate and support the application and not on the additional land that is not going to be developed. He would like to have a waiver for detailed wildlife studies and vernal pools studies.

Jon Morse motioned to consider waivers on comprehensive wildlife studies, vernal pool studies, limit the topography to 5 foot contours and to limit it only to the portions of the lot that are being developed for the Bauneg Beg Land Development LLC. Rick seconded the motion. VOTE: 5-0

Chairman Chase opened the meeting for public comment at 8:35 pm.

Lorinda Hilton had a question regarding the Recover House project. Since they have filed as being a non-profit, does that mean that they will not be paying property taxes? Larry stated that they will not be exempt completely but will pay a percentage.

Donald Royal asked how come everyone that has built on Farm and Forest in the past has had to have 300 feet in 4 acres, but now you are turning around and doing 200 feet? Also, he said that Mr. Mende mentioned 7 lots if you cluster it. He only has road frontage for 6 lots. Will they now allow 7 or 8 lots? Larry stated that this is a subdivision not an individual lot and the Planning Board has the discretion to limit things that are in the ordinance to a subdivision such as a cluster subdivision to provide more open space. They have provisions that they can deal with and limit road frontage, size of lots and things like that but only in cluster subdivisions.

Sonja Royal asked if there was any way that the Recovery House would be denied or is it a done deal. Larry Huntley stated that his opinion is that it is allowed in that zone and the Board can put restrictions on them but they cannot deny it.

Chairman Chase closed the meeting for public comment at 8:40 pm.

4. Other Business:

Larry Huntley stated Dollar General will be at next meeting.

Chairman Chase stated that Shaun DeWolf has resigned from the Board. He told Jon Morse that he has asked Dwayne Morin to have the Selectman accept Jon as a full member of the Board.

5. Adjournment:

Rick Reynolds motioned to close the meeting at 8:42 pm. Mark seconded the motion. VOTE:
5-0

Lawrence Huntley, CEO
Planning Coordinator

Respectively submitted,
Susan Niehoff, Stenographer

Chairman Barry Chase

Rick Reynolds

Mark Cahoon

Geoffrey Aleva

Jon Morse

Anne Whitten