

NORTH BERWICK, MAINE 03906

MINUTES OF PLANNING BOARD APRIL 24, 2014

Present: Chairman Barry Chase, Rick Reynolds, Geoffrey Aleva, Mark Cahoon, Jon Morse

Absent: Anne Whitten

Also Present: Mike Hodgson, Stan Rice, Dawn Rice, Sid Hall, Pat Dube, Todd Prevatt, Joseph Pelletier, Lindsay Badger, Lorinda Hilton, Shirley Barto, Diane Perry, Brian Perry, Donna James, Ashley Perry, Amber Bernier, Chris Nadeau, John Wojtila, Stephen Rancati, Jamie McCulloch, Melinda Parker, David M., Lori St. Onge, Pete St. Onge, Jim Fisher, Jayme Fisher

1. Call to Order:

Chairman Chase opened the Planning Board meeting at 6:32 pm.

Chairman Chase stated that Jon Morse was now a full member of the Board.

2. Review Previous Minutes:

Rick Reynolds motioned to approve the minutes from the April 10, 2014 Planning Board meeting. Mark Cahoon seconded the motion. VOTE: 4-0 Abstain: 1

3. Current Business:

Chairman Chase stated that the first item on the Agenda was Dollar General. John Wojtila stepped forward to discuss the proposal. He quickly reviewed what they are proposing. He stated that it is a 2.8 acre lot located at 33 Elm Street. He stated that there are 6 existing buildings and all but one will be demolished to make way for a 9,100 sf retail building. The Historical Society will be granted the old house that sits by the river. One of the things that they changed that was brought up at a previous meeting, is that they needed the propane tanks to be setback 75 feet. He stated that the proposed rear property adjustment has been changed to allow this setback.

Chris Nadeau from Nobis Engineering stepped forward to discuss other changes since the last meeting. He stated that one of the comments made by the Board at a previous meeting is that they change one of the details for their sidewalk. The Board suggested to make the concrete sidewalk into a monolith with the curb so it would all be one pour of concrete between the curb and the sidewalk. They have done this. They also removed one of the light poles on one edge of

the property because there was some light spillage onto the abutting property. The light now comes from a double fixture that is close to the driveway. Per a recommendation that was made by Underwood Engineering, they added a few very shallow drainage retention areas in the back of the site to get more storm water treatment before it runs off to the vegetated areas. Mr. Nadeau stated that he heard from the engineers yesterday and they stated that all of their comments had been addressed.

Chairman Chase asked Lee Jay Feldman if he had any comments. Mr. Feldman stated that since the last meeting, there were a number of comments that Underwood Engineering wanted addressed. He stated that the plans that are before the Board tonight are all set. Underwood Engineering has no additional comments and are fine with it. Mr. Feldman stated that he did his cursory review from a zoning standpoint and he has no issues or recommended conditions for approval. He stated that from his perspective, they are all set to go.

Jon Morse asked if they were going to take care of the driveway and parking for the historical building. Chris Nadeau stated that they were going to leave some of the pavement that was already there for parking. They will then make a connection between that parking area and the store's driveway.

Geoffrey Aleva asked if there were any changes in the building design since the last meeting they were at and Chris Nadeau stated that there were no additional changes.

Rick Reynolds motioned to approve the proposal for Dollar General for a 9,100 s/f retail store and parking lot (map 17, lot 45) at 33 Elm Street. Jon Morse seconded the motion. VOTE: 5-0

Chairman Chase moved on to the next item on the Agenda which is for the applicant Recovery Maine, Inc. They are proposing for substance abuse treatment services at 33 Main Street (map 18, lot 101). Chairman Chase asked Joseph Pelletier if they had anything new to present to the Board tonight. Mr. Pelletier stated that they did not have anything new but could answer any questions that the Board might have for them.

Chairman Chase asked Lee Jay Feldman if he had had a chance to review the information from the previous meetings. Mr. Feldman stated that he has reviewed their application and is preparing a Finding of Facts for them to review. He stated that he is here tonight to answer any questions that the Board may have. Chairman Chase stated that they wanted to make sure that they did everything right for the Town. Mr. Feldman stated that the Federal Fair Housing Act indicates that uses such as this proposal are more or less considered a single family residential use. He stated that the Board has the opportunity to review the project and set conditions such as hours, screening, loitering, parking and other things. Mr. Feldman also stated that the Board may want to consider having a condition that states that the Board can review the application in 6 months, or whatever time is decided on, to make sure that they are following all the conditions that were set. The Board can also at this time, set new conditions.

Jon Morse asked Joseph Pelletier about the letter from the church regarding the parking that he asked for at the previous meeting. Mr. Pelletier stated that the Pastor was going to set up a meeting with the Deacons but it didn't happen because the Pastor was sick this week. Mr. Pelletier stated that the parking plan that they submitted on paper, absent of the overflow parking that they are proposing, meets current requirements for the building. They will still pursue the approval from the Church for the overflow parking.

Chairman Chase stated that they had received the letter from the Police Chief and Fire Chief. The Police Chief stated that he does not have any problems with the building. The Fire Chief stated that the State Fire Marshall's office will be going over any safety issues that may come up.

Geoffrey Aleva asked if they were just going to do the ten residents instead of sixteen. Mr. Pelletier stated that this is what the Town attorney has recommended and they will go along with that recommendation.

Mr. Aleva asked if the general Fire Marshall construction permit had been submitted yet. Mr. Pelletier stated that it had not been submitted yet because they do not own the building. Mr. Aleva asked Lawrence Huntley what he thought about parking shown on the site plan. Mr. Huntley stated that he felt it was sufficient for the building.

Mark Cahoon asked Lee Jay Feldman if there were any State or Federal mandates regarding bedroom size for this type of facility. Mr. Feldman stated that there was not. It would actually come under the building code.

Chairman Chase asked Mr. Pelletier if they were waiting to get approval before having the architect do a stamped set of plans. Mr. Pelletier stated that they will not be working off a stamped set of plans. They will get the Fire Marshall to review the plan that they currently have to go with the building permit. He stated that since the structural integrity of the building is already in place, they are just going to be building interior walls. He stated that the architect told him it was a working set of plans. Geoffrey Aleva stated that he thought the Fire Marshall will want to have the plans stamped.

Geoffrey Aleva stated that he thought the parking was okay but he was wondering if there were any thoughts on fencing for screening in that area. He asked Mr. Pelletier if they were planning on adding any landscaping or screening on the back side of the parking lot. Mr. Pelletier stated that there are granite blocks there now that delineates the property between the parking lot and the neighbors. Chairman Chase asked if they were considering paving the parking lot. Mr. Pelletier stated that they were still considering the options. They are currently just looking at improving what is there for draining purposes to allow seepage of water and may go with a reclaim.

Geoffrey Aleva asked Mr. Feldman how the site plan approval would work if there were any complaints. If people had complaints and went to Larry about it, then, how could that potentially affect the site plan approval? Mr. Feldman stated that if the applicant does not comply with the conditions of approval and complaints come in from people, it is the Code Enforcement Officer's job to look into these complaints. If they are valid and there are issues that are occurring, he can do one of several things to enforce it. First, he can talk to them and ask them to comply. If they still do not comply and there are still issues, the Town could file an appeal through the courts.

Chairman Chase asked Mr. Pelletier if he had any issues with anything they had brought up so far. Mr. Pelletier stated that the only thing that he would have an issue with is the paving of the parking lot. He states that it has been operational as an unimproved lot for years. He feels that if they make some improvements to it and it is functional for the use that they have there on the property, he doesn't feel that the Board should mandate that they pave. Larry Huntley stated that right now it is approved for a two family dwelling and maybe three cars have been in that parking lot. With the use that this proposal is for, you are looking at probably nine cars in that parking lot at one time. There will be more wear and tear on the parking lot and with the cars going in and out, and it will tear up the town's roads. From going from pavement to gravel all the time, cars may break that road up a little bit. Mr. Pelletier stated that there were seventeen cars in that parking lot last Sunday. Mr. Huntley stated that it was just once a week. Chairman Chase stated that it would also be hard to mark out a handicap parking space on gravel.

Lindsay Badger asked if there could be time frames listed with the conditions. Chairman Chase stated that most of the conditions would need to be met prior to obtaining the occupancy permit.

Jon Morse stated that he doesn't feel that the parking lot needs to be paved. Mark Cahoon stated that they could just put up a handicap sign where they want the space to be. Chairman Chase stated that there was nothing in the ordinance that stated that it would need to be paved. Geoffrey Aleva said that it states under Interior Vehicular Circulation in the Ordinance that "Painted arrows and/or elevated signs should be used as necessary to define desired circulation patterns."

Chairman Chase said that they should go through each of the issues and discuss them.

Screening – Chairman Chase asked how the Board felt about having a low fence to block the headlights on the back side of the parking lot. The members discussed various options such as landscaping or fencing. Mr. Pelletier stated that the residents have a curfew of 9:30 pm and most of the cars would be coming in and out during the day. Geoffrey Aleva stated that he is not concerned with the screening in this area. He is more concerned with the screening in the smoking area. Mark Cahoon stated that he wants to see screening in the open area but he is not as concerned with the back parking area. He also stated that they would probably use this area for their snow removal. Rick Reynolds, Jon Morse and Geoffrey Aleva all stated that they did

not feel the need for screening in the back area as well. Larry Huntley stated that they could always put it down that it is a possibility for screening with a review in 6 months if there are complaints. Mark Cahoon would like to make it longer than 6 months. Larry stated that they can do it for 12 months but they just can't keep it open.

Loitering – Geoffrey Aleva asked how high the fence was that was being used for screening in this area. Mr. Pelletier stated that it was 7 feet. Mr. Feldman stated that the applicant indicated that the curfew was 9:30 so the Board can require that this curfew applies to this open area as well. Lindsay Badger stated that they do have a plan in place to make sure that the loitering will be monitored.

Residents – There will be 10 residents per our Town Ordinance.

Parking lot - Mark Cahoon said that regarding the paving, he would leave that open to review at a later time so they can see if there is any damage being done to the Town roads. If there is any damage, then the Board can require paving at that time. Rick Reynolds stated that the handicap parking space up to the walkway should be paved because it would be really difficult with a wheelchair on gravel. Jon Morse agreed with Mark Cahoon and we should review it in 12 months. Chairman Chase stated that he feels that it should be paved. Geoffrey Aleva said that it should have at least a compacted reclaim on it as a bare minimum.

Review period – Chairman Chase asked the Board when they would like to review. He also stated that they could only review the conditions that were put on them initially and could not add new ones. Mr. Feldman stated that they could review the operation as a whole and see if there are other things that need to be done based on complaints. Geoffrey Aleva stated that the applicant should come back 9 to 12 months from certificate of occupancy.

Chairman Chase stated that they will now go through each of the conditions and make a motion on each of them.

1. Geoffrey Aleva motioned to create Condition #1 to the site plan that the parking area be accepted as presented without screening on the North and East property lines of the parking area with the option to review within 12 months of obtaining the occupancy permit. Jon Morse seconded the motion.

VOTE: 5-0

2. Geoffrey Aleva motioned to create Condition #2 that the facility be limited to 10 residential occupants. Mark Cahoon seconded the motion. VOTE: 5-0

3. Geoffrey Aleva motioned to create Condition #3 that the parking lot remain gravel with the option for review within 12 months of occupancy permit.

Mark Cahoon asked if it should be gravel or reclaimed. Geoffrey Aleva would like to see it

reclaimed. Mr. Pelletier stated that they will go ahead and do the parking lot with compacted reclaimed materials. Mr. Aleva rescinded the motion and created a new one.

Geoffrey Aleva motioned to create Condition #3 that the parking area will be covered with compacted reclaimed materials or bituminous pavement and will be reviewed within 12 months of the certificate of occupancy. Rick Reynolds seconded the motion. VOTE: 4-1

4. Geoffrey Aleva motioned to create Condition #4 that will allow the Planning Board to review the site plan approval for compliance within 12 months from certificate of occupancy. Larry Huntley stated that they might want to amend the condition to add that it is for compliance of the North Berwick Zoning Ordinance.

Geoffrey Aleva motioned to add North Berwick Zoning Ordinance to the previous motion. Mark Cahoon seconded the amendment. VOTE: 5-0

Geoffrey Aleva motioned to create Condition #4 that will allow the Planning Board to review the site plan approval for compliance of North Berwick Zoning Ordinance within 12 months of obtaining certificate of occupancy. Mark seconded the motion. VOTE: 5-0

Rick Reynolds asked if they wanted to state something about the hours of operation. Mr. Feldman stated that as long as it is stated on record in the minutes, he has self-conditioned himself on that. He has stated that the hours would be 9-4 for treatment services. Mr. Pelletier asked if there was room to expand the hours. Mr. Feldman stated that he would have to have it approved by the Board. Mr. Pelletier said that they may need to hold an outpatient group in the evening for people who cannot come during the day. Should they amend their proposal to state that instead of running the business from 9 to 4, they would like operate from 9 to 9? Mr. Huntley stated that they could come back to the Board to approve extra hours at any time. The Planning Board could only do it within the 12 months but they could request it at any time. Mr. Pelletier stated that this would limit them at the onset if they decided they needed to have additional time and have to come back to the Board to request additional hours. He stated that there will be times where they may have an afterhours group or if someone comes in on an emergency basis, they want to be able to help them.

Chairman Chase stated that if they wanted to change their hours, they would have to come back to the Board and have us review it. Mr. Pelletier stated that they would like to make an adjustment to their proposal regarding the hours of operation. Lee Jay Feldman stated that the Board has not approved the application yet so they cannot really make an adjustment yet. Mr. Feldman suggests that the Board approve it first and then the applicant can prepare a written statement requesting the Board to revisit this at a later date. Chairman Chase stated that if they ask for a change now, they would have to hold a public hearing. Mr. Pelletier stated they will leave the proposal as is with no adjustments. Mr. Huntley wants to make it clear that with any adjustment of this plan, you will have to open it up to a public hearing so that it is legal. This way all of the neighbors that this may affect can have a say in it.

Mr. Pelletier asked what size of a fence would be needed for the back parking area if they decide to add it. Geoffrey Aleva said a 4 foot fence would be fine.

Rick motioned to approve the proposal for the substance abuse treatment services at 33 Main Street (map 18, lot 101) with the previously approved conditions. Jon Morse seconded the motion. VOTE: 5-0

Lee Jay Feldman stated that there will be Findings of Fact at the next meeting. He stated that this would be the official record if there was ever any issues in court. Mr. Pelletier asked if they need to be in attendance for this and Mr. Feldman said that it would be a good idea. Mr. Pelletier asked if they could do it at another meeting because they cannot make it on May 8th. Larry said that they would do it at the May 22nd meeting.

4. Other Business:

Chairman Chase asked if there was any other business. Larry stated that the people for the subdivision will probably be back.

5. Adjournment:

Rick motioned to close the meeting at 7:58 pm. Mark Cahoon seconded the motion.
VOTE: 5-0

Lawrence Huntley, CEO
Planning Coordinator

Respectively submitted,
Susan Niehoff, Stenographer

Chairman Barry Chase

Geoffrey Aleva

Rick Reynolds

Mark Cahoon

Jon Morse

Anne Whitten