

NORTH BERWICK SELECT BOARD MINUTES NOVEMBER 7, 2023

Present: Chairperson Galemmo, Selectperson Johnson, Jr., Selectperson Cowan,
Selectperson Johnson, Sr., Selectperson Hall

Also Present: Dwayne Morin, Matt LeConte, Mark Cahoon, Anne Whitten, Justin Perry, David
Ballard, Rebecca Reed, Mark Reed

1. PLEDGE OF ALLEGIANCE

2. REVIEW AND APPROVE MINUTES OF OCTOBER 17, 2023

Selectperson Cowan motioned to approve the Minutes of October 17, 2023, as written.
Selectperson Johnson, Jr. seconded the motion. VOTE: 5-0

3. PUBLIC INPUT

N/A

4. UNFINISHED BUSINESS:

A. COMMUNICATIONS TOWER: Update on Progress

Dwayne indicated that our applications remain pending before the FCC to complete the tower project. Dwayne indicated that we did get some unfortunate news when we went to move one of our frequencies in that they have reduced the power significantly. In order to get a higher power, 3 towns in NH and MA need to sign off on our plan. He stated that we will move forward to get permission from those town and we are also looking to utilize a business channel as they are more readily available and they can be utilized at a higher output. Southern Maine Communication continue to work this part of the project. On Friday, they also began the process of installing the antennas in advance of the license update.

B. ROADS: Update on Road Projects

Dwayne stated that we are complete on our road projects with the exception of the striping. It looks like we have about \$175,00.00 of additional funds to be utilized towards project in the spring in addition to Brewer Road and Valley Road projects.

C. BONDING: Update on Bonding Process

Dwayne indicated that the bond closing has occurred and the funds have been transferred to the Town. He stated that we will reimburse the town for the \$1million spent thus far this coming week. The Fire Department will start on the SCBA project.

**Reminders: Next Select Board's Meeting – November 21, 2023 – 6:30 P.M.-
Room 212**

5. NEW BUSINESS:

**A. PLANNING BOARD: LD 2003 Updated Zoning Changes to Comply
with Legislation**

Dwayne indicated that he has invited members of the Planning Board here tonight to discuss the zoning changes which are required to bring North Berwick in compliance with the Housing law passed by the Maine Legislature. He stated that there are three categories, to wit: Affordable Housing, Reduced Density and Accessory Dwelling Units (ADU's). He stated that the law requires that towns adopt this law and language by July 1, 2024. There is a guidance document that was provided by the State. He indicated that if the Town does not comply with this, the town will become a legal challenge and the town will lose. Dwayne stated that can use some of the guidance document's language and put it into our own ordinance. These changes have been reviewed by SMPDC and after tonight's meeting, it will go to the Town's attorney and they will formulate the question(s) that will be voted on at town meeting. Dwayne is hoping that there will only be one question and is pushing for that.

Regarding Affordable Housing, the State has stated that we have to create an affordable housing zone within our ordinance. We currently have one that is the Village C overlay where there are three sections of the town that it is currently allowed: Somersworth Road, near Hannaford's; Lebanon Road from about Route 4 to the Water Tower and on Lower Main Street. Dwayne stated that this has been in the ordinance since 1996 and to date, no one has taken advantage of it. The State is now saying that affordable housing has to in any zone that is a growth zone. In our town, the non-growth zone is farm & forest and every other zone, with the exception of industrial is considered a growth zone. There is a 30-year limit and the density is 2.5%. Dwayne does not believe anybody will take advantage of this but the State says that we need to put it into our ordinance. Dwayne feels it would work more if there were more incentives. This will need to also comply with shoreland zoning if applicable.

North Berwick's current zoning allows Affordable Housing in only Village C Overlay Zone and Commercial District and to comply we will need to either limit multifamily dwellings to specific zones or expand to all designated growth areas and areas with public water and sewer (Village A, Village B, Village Center, Commercial, Commercial II and Residential I.)

The affordability for Rental will be 80% of median income without spending more than 30% of household monthly income. For Ownership it will be 120% of median income without spending more than 30% of household monthly income. North Berwick's current zoning is: Village C Overlay Zone - Requires 80% of median household income without spending more than 28% of monthly income for both rental and ownership. To comply: Need to increase ownership requirement to 120% and change monthly income requirement to 30% for both rental and ownership for all zones in the designated growth areas and areas served by public water and sewer (Village A, Village B, Village Center, Commercial, Commercial II and Residential I).

Regarding Density, it requires 2.5 times density of Zoning District, no more than 2 off-street parking spots for every 3 units, be in a designated growth area or served by public, special district or centralized water and sewer system. North Berwick's Current Zoning: Village C Overlay Zone and Commercial Zone – Multi-family units: Reduced to 2,500 sq. ft. per dwelling unit with water and sewer and 5,000 without water and sewer. Ownership (single family) reduced to 10,000 sq. ft. with public water and sewer and 20,000 without public water or sewer. Requires a minimum of 1 parking space per unit. To comply we will need to eliminate Village C Overlay Zone. Would need to rewrite Affordable standards for multifamily for zones that currently do not have affordable standards (Village A, Village B, Village Center, Commercial, Commercial II and Residential I) to have 2.5 density bonus for each Zone: (Village A – 8,000 sq. ft.; Village B – 12,000 sq. ft.; Village Center – 8,000 sq. ft. without water and sewer and 4,000 sq. ft. with water and sewer; Commercial- 8,000 sq. ft. without water and sewer and 4,000 sq. ft. with water and sewer; Commercial II - 16,000 sq. ft; Residential I – 16,000 sq. ft.). Require that there be 2 parking spaces for every 3 units.

Regarding long term Affordability: Requires 30-year restrictive covenant, before granting final approval including but not limited to issuing an occupancy permits (LD 1706), prior to Occupancy : Rental 80% of median income at time of initial occupancy; Ownership 120% of median income at time of initial occupancy. North Berwick Current Zoning: In Village C Overlay Zone and Commercial requires deed restriction for 30 years from initial date at 80% of median income. To comply: Would need to extend the deed restriction covenant to all designated growth areas (Village A, Village B, Village Center, Commercial, Commercial II and Residential I). Water and wastewater: Provide proof of water and wastewater availability for lot. North Berwick's Current Zoning: Already required – Nothing to implement to comply. Subdivision: Cannot exempt subdivision law for division of tract or parcel of land (silent on division of building which also is required under subdivision law). North Berwick Current Zoning: Already required for land and building– Need clarification from State on building divisions.

David Ballard questioned the multi-family dwellings language and Dwayne indicated it was an all or none zone. Chairperson Galemme asked that since our current ordinance meets all density requirements, this really has no significant impact. Dwayne stated it will change our ordinance and he believes nobody will take advantage of this since there are no incentives to do so. Our current overlay is less restrictive and nobody has ever taken advantage of this.

Dwayne stated the next topic is Residential Housing. The State has indicated that for all residential areas that allows houses to be built, which is everywhere in our Town, with the exception of industrial, we must allow on a vacant parcel of land, in a designated growth area –

four units. If it is outside a growth area, there will be two units allowed. On land that already has a house on it, up to two additional units can be put on that lot. One could be attached or non-attached. On land that has two units, all dimensional requirements need to be met. Our ordinance already allowed for this and you are already allowed to build more than one house on a lot as long as dimensional requirements are met. Dwayne stated that this new language would not change our ordinance. Selectperson Cowan asked that in order to do this in farm & forest, they would have to put up a duplex and Dwayne stated that was correct and stated that if there are zero houses on that lot, they could either put up one house or a duplex and the acreage falls under that as well. The only change to our ordinance would be changing the language.

Dwayne stated the biggest change is going to be on the topic of ADU's. Currently our town's ordinance, there are seven criteria that a person needs to meet in order to put in an ADU. One of the primary criteria is that it has to initially be for an in-law. That will now go away and an ADU will not be counted as an additional unit which means that if someone has a house and wants to put in an ADU, they can do without additional land, frontage or parking space and the planning board will not be allowed to review it. Dwayne stated that what will be required is the correct amount of sewerage and water. ADU's can also be a separate unit and does not have to be attached to the house. The State did create size requirements in that the minimum must be at least 190 square feet and allows towns to set the maximum. Dwayne stated that our current maximum size requirement is 650 square feet and he is recommending that we stay at that maximum size. Dwayne also stated that the new legislation states that there can be additional units on a lot or an ADU, but a person cannot do both. The other big change is that if someone built an ADU on their property, and they did not obtain permits and violated the zoning requirements but if you did apply, you could have been granted a permit, you can keep the ADU and no fines will be assessed. Justin Perry asked if there was a short-term or long-term requirement for an ADU. Dwayne stated there was not. Selectperson Hall asked if the ADU have a compost toilet and gray water station. Dwayne stated that it has to meet State criteria for a septic system. Dwayne stated that ADU's have to be permanent structures, not tiny homes.

Selectperson Hall indicated that this will significantly reduce the work of the Planning Board. Dwayne stated that they will now not be reviewing ADU's but there will be other things that they will be involved in. Dwayne also indicated that the State is pushing to propose a State Planning Board but that has been tabled at this time.

Dwayne indicated that there are about 30 definitions that we need to add to our ordinance and we need to change our land use tables, eliminate all mention of Village C zone and adding affordable housing standards under our dimensional requirement chart. The map will also need to be changed eliminating the hatched area. He stated that there will be about 20 pages of changes to our ordinance to make it all work.

Selectperson Hall inquired members of the Planning Board to discuss changes they were proposing going forward. Anne Whitten stated one of the changes was to going to be not allowing solar fields in farm and forest. Mark Cahoon stated that he felt strongly about not allowing solar fields in farm and forest and does not consider that green energy. This did not apply to personal household solar.

Dwayne stated again that this will all be sent out to the town's attorney and is hoping to condense it into one question. He has a feeling the attorney may suggest three separate questions broken down into Affordable Housing, ADU's and Residential and also a question to change the maps and tables. Dwayne stated they are all inter-connected and will draft one question for her to review.

B. ABATEMENTS AND SUPPLEMENTALS FY24: Review Abatements and Supplementals

Dwayne indicated that there were no abatements and supplementals at this time.

6. OTHER BUSINESS

Dwayne indicated that there will be a Christmas Parade on Saturday, November 25 and indicated he was asked to bring it to the Select Board's attention in the event they had any interest in participating in the parade.

7. REVIEW AND APPROVE WARRANTS AND CORRESPONDENCE:

Warrant:	October 24, 2023	- \$ 22,507.95
Warrant:	October 31, 2023	- \$ 104,826.77

Selectperson Hall motioned to approve the warrant for October 24, 2023 in the amount of \$22,507.95 and the warrant for October 31, 2023 in the amount of \$104,826.77. Selectperson Johnson, Sr. seconded the motion. VOTE: 5-0

8. ADJOURNMENT:

Selectperson Hall motioned to adjourn the meeting at 8:22 pm. Selectperson Johnson, Sr. seconded the motion. VOTE: 5-0

Respectively Submitted,
Jennifer Berard, Stenographer

Original to Town Clerk

Chairperson: Charles Galemmo

Selectperson: Jonathan Hall

Selectperson: Michael Johnson, Jr.

Selectperson: Wendy Cowan

Selectperson: Michael Johnson, Sr.