

NORTH BERWICK, ME 03906

MINUTES OF PLANNING BOARD FEBRUARY 16, 2017

Present: Chairman Geoffrey Aleva, Barry Chase, Jon Morse, Matthew Qualls, Anne Whitten, David Ballard, Roger Frechette, CEO

Also Present: Sarah Adams, Les Bodwell, Chris Mende, Dwayne Morin

1. Call To Order:

Chairman Geoffrey Aleva called the meeting to order at 6:30 pm.

3. Current Business:

Chairman Aleva stated that there were 3 proposed Ordinance changes to go through and he said that they would go through them one at a time.

Public hearing on proposed Zoning Amendments & subdivision Ordinance pursuant to 1.5.3 of the North Berwick Zoning Ordinance to include:

1. Article 5.2.22 Allowing domesticated chickens in all zones, except shoreland zone, and provide standards for keeping of chickens.

Chairman Aleva read the first question into the minutes:

Question #1: Shall an ordinance entitled, “An Ordinance Adding a new section 5.2.22 and Amending Sections 3.2 Definitions and 4.3 Land Use Table of the Zoning Ordinance to allow domesticated chickens in all zones, except the shoreland zones, provided that certain performance standards are met” be enacted?

Chairman Aleva opened the Public Hearing at 6:34 pm.

Dwayne Morin stated that this was a request brought forward by the Agricultural and Conservation Commission. He stated that the Attorney did make a few changes to the proposal since the Planning Board last saw it. The Attorney wanted the Land Use Tables included as part of the changes so the Land Use Tables for Pages 4-11A & 4-11E are included in the language itself. Also under Section A under Article 5.2.22 Chickens, she made a few changes. Under A.2, it used to say “In all multi-family complexes, chickens shall be allowed only with the written consent of all dwellers and property owner.”. It was changed to “In all multi-family complexes, chickens shall be allowed only with the written consent of all dwelling unit owners or tenants and the property owner.”. On A.3, it used to read, “On all lots having more than

40,000 sq. ft., each additional 40,000 sq. ft. grants permission to keep 6 additional chickens.”. It now reads, “On single-family and multi-family lots having more than 40,000 sq. ft., for each additional 40,000 sq. ft. of lot area, an additional 6 chickens may be kept.”.

Dwayne stated that under Section B Enclosures, the Attorney made some minor changes for better clarification. The third sentence used to read, “Facilities shall be designed ...”. It now reads, “Facilities for keeping chickens shall be designed...”. The fifth sentence used to read, “Among the factors that shall be considered are the relationship of the use to the topography, natural and planted horticultural screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.”. It now reads, “Among the factors that shall be considered in determining whether such facilities are placed on the property in a manner that will minimize the adverse effects of such facilities on surrounding properties are: the relationship of the use to the topography; natural and planted horticultural screening; the direction and intensity of the prevailing winds; the relationship and location of residences and public facilities on nearby properties’ and other similar factors.”. The last sentence used to read, “...Code Enforcement Officer may issue a permit for the enclosures to be located in the front of the property provided all applicable zoning setbacks for the Zoning District are met.”. It now reads, “...Code Enforcement Officer may issue a permit for the enclosures to be located in the front of the property provided that the standards contained herein and all applicable zoning setbacks for the Zoning District are met.”.

Chairman Aleva closed the Public Hearing at 6:37 pm.

2. Article 6.1.7 Amending building permit applications into two parts; First part for foundations, Second part for the building structure itself once certification from surveyor is provided showing all setback requirements have been met.

Chairman Aleva read the next question into the minutes:

Question #2: Shall an ordinance entitled, “An Ordinance Amending Section 6.1.7 and deleting the definition of a Category 3 survey under Section 3.2 Definitions of the Zoning Ordinance thereby amending building permit approval for buildings with foundations into two parts; first part a foundation permit and second part a building permit for the structure itself once certification from a surveyor is provided showing all setback requirements have been met” be enacted?

Chairman Aleva asked Dwayne if there were any changes from what the Planning Board had previously reviewed.

Dwayne stated that the format used stated “Currently Reads” followed by “Proposed to Read”. It now has the “Currently Reads” included in the “Proposed to Read” and it is all struck out. The

Attorney just wanted to show the contrast. Dwayne stated that at their last meeting, they talked about eliminating the Category 3 Survey definition and instead putting the requirements in the “Proposed to Read”. Dwayne read the Proposed to Read into the minutes:

6.1.7 For the construction of a principal or accessory building with a foundation, permit approval shall be granted in two parts: a foundation permit and a building permit. A foundation permit shall be issued by the Code Enforcement Officer upon approval of the building permit application and plans. The building permit shall be issued for the structure upon submission of written documentation from a Maine certified land surveyor to the Code Enforcement Officer showing compliance with the Zoning Ordinance setback requirements. The written documentation shall include a plan stamped by the Maine certified land surveyor which is sufficiently detailed to show that all setback requirements are met and accurately shows the location of all structures on the property. Any building construction, other than foundation (footings, floor and walls), completed prior to submission of surveyor documentation or building permit issuance shall be deemed in violation of this ordinance pursuant to Article 6.7 and subject to fines.

Chairman Aleva opened the Public Hearing at 6:40 pm.

Les Bodwell asked if this was for all structures or just accessory structures. Chairman Aleva said that it was for all structures. Roger Frechette stated that an applicant will submit everything as usual and he will give them a permit for the foundation. He can't give the building permit until the survey comes back and says that everything is correct.

Chairman Aleva closed the Public Hearing at 6:41 pm.

3. Articles 5.2, 6.3, 7.2 & 8.2 Number and size of subdivision plans submitted, to also include one digital copy.

Chairman Aleva read the next question into the minutes:

Question #3: Shall an ordinance entitled, “An Ordinance Amending Section 5.2, 6.3, 7.2 and 8.2 of the Subdivision Ordinance to require the submission of a digital copy of a proposed subdivision plan along with the required paper copies” be enacted?

Chairman Aleva stated that this one is pretty self-explanatory. It simply states that when an applicant submits an application for review by the Planning Board, they will need to now attach a digital copy of it.

Chairman Aleva opened the Public Hearing at 6:42 pm.

Chris Mende just wanted to have clarification if a digital copy meant a PDF file and not a CAD file. Chairman Aleva stated that it was a PDF file. It makes it easier for the CEO to send the information out to the Board members prior to a meeting for them to review the application.

Matthew Qualls stated that each of the sections specified different things such as number of copies along with the digital file. He wondered if this should be clarified for the record.

Chairman Aleva went over the changes. Regarding Section 5.2, which is the review of the sketch plans, they added the following: A digital copy of the sketch plan shall be submitted.

Section 6.3 talks about Minor Subdivisions and the last sentence was changed to read as follows: Two copies of all information accompanying the plan shall be submitted along with one (1) copy of an 11x17 reduced size plan and a digital copy of the plan, application and information.

Section 7.2 regarding the Preliminary Plan the sentence before last was changed to read as follows: In addition, one (1) copy of an 11x17 reduced size plan and a digital copy of the plan, application and information shall be submitted. Also the number of copies in the first sentence was changed from “three” to “two”.

Section 8.2 regarding the Final Plan, the sentence before last was changed to read as follows: Two copies of all information accompanying the plan shall be submitted along with one (1) copy of an 11x17 reduced size plan and a digital copy of the plan, application and information.

Chairman Aleva closed the Public Hearing at 6:45 pm.

Anne Whitten motioned to submit the Planning Board recommendations for Question #1 to the Board of Selectmen. Barry Chase seconded the motion. VOTE: 5-0

Anne Whitten motioned to submit the Planning Board recommendations for Question #2 to the Board of Selectmen. Barry Chase seconded the motion. VOTE: 5-0

Anne Whitten motioned to submit the Planning Board recommendations for Question #3 to the Board of Selectmen. Barry Chase seconded the motion. VOTE: 5-0

Chairman Aleva stated that this concluded the Zoning Ordinance questions for the Public Hearing. Next is the following:

4. CU review for Adams Farm Realty Trust located at 42 Market Street Tax Map 018 Lot 027 Applicant proposes to discontinue the clothing store on the first floor and change the space into a third dwelling unit.

Chairman Aleva asked Roger Frechette if he had any comments regarding the project. Mr. Frechette stated that after he reviewed the Ordinance he believes they are fine to be able to do

this. He said that they will be adding a sprinkler system to the building and also some fire escapes. Mr. Frechette stated that we need to get a confirmed parking spot for it. The letter that he received from the adjacent property owner does not confirm that they are letting them have a parking spot. Mr. Frechette also provided the Board members with a letter from the State Fire Marshall's office stating that they will need to install a NFPA 13R system.

Sarah Adams stepped forward to discuss the application. She stated that they do have 2 adjacent property owners who have agreed to rent or lease them a parking spot. She stated that the scope of the project was initially for a cost of \$15,000 but they are now looking at \$54,000 because of the sprinkler system and fire escape. The fire escape will be able to be installed as soon as the snow is gone and everything else is contingent on the approval by the Board.

Chairman Aleva opened the Public Hearing at 6:50 pm. There were no comments.
Chairman Aleva closed the Public Hearing at 6:50 pm.

Barry Chase wanted to know where it was actually located. Sarah Adams stated that it was located across from the old bank next to the pizza place.

Chairman Aleva stated that it looks like the only issue is getting confirmation about the second parking spot.

Anne Whitten motioned to accept the application for Emily Adams, Trustee, Adams Farm Realty Trust located at 42 Market Street, Map 18, Lot 27 to discontinue the clothing store on the first floor and change the space into a third dwelling unit with the following condition: A letter from the adjacent property owners giving permission to allow for the use of a parking spot.

Matthew Qualls seconded the motion. VOTE: 5-0

5. Final Plan Review and approval for LRB Multifamily. Applicant proposes to add a second 6 unit multifamily building locates at 62 Somersworth Road (Route 9) Tax Map 1 Lot 65

Chairman Aleva stated that he needed to recuse himself from this review because he works for Civil Consultants. Vice Chairperson Anne Whitten stepped in as Acting Chairperson.

Acting Chairperson Whitten moved David Ballard up to full voting status for this application.

Chris Mende stepped forward to discuss the proposal. At the last meeting, there were a couple things that the Board asked for. One was for documentation from Maine DOT stating that the entrance permit that they currently have is adequate. He has provided the Board with a letter from Maine DOT. Mr. Mende also stated that the Board had requested that a note be added regarding a Knox Box and fire protection. They have added Note 10 to sheet C2 of the plan which states, "Building to have fire protection sprinkler system and Knox Box installed in accordance with North Berwick Fire Department requirement."

Another thing that they added to the plan was in regards to the gravel parking lot. On sheet C2, in the bottom right hand corner, they added the following note: Proposed gravel parking area (5 spaces) permitting and construction will be responsibility of the Town of North Berwick. Mr. Mende stated that he needs to have discussions with Dwayne Morin regarding language for the easement but they haven't had time to meet yet.

Chris Mende stated that the day after the last meeting, Dwayne called him and told him that they may have a problem regarding hooking up to the town water system. Jay Stephens from Civil Consultants had that conversation with the Water District and apparently Mr. Mende was not aware of the whole conversation. Apparently the letter that the Water District provided simply said that they could provide water because they had the capacity to do so. However, none of the engineering details had been worked out. Mr. Mende said that they thought that the water line came a little closer to the property and was on the same side of the property but it is actually a little bit further away and on the opposite side. Since finding this out, Mr. Mende has had conversations with the Water District and Jay Stephens is currently working on the water designs. He stated that they have added notations to the plan showing the well and some language addressing the well situation so as to hopefully not hold up the project. He said that their goal is that before they get to the construction process, they can bring a design in to the Planning Board or coordinate it through the CEO showing the connection to the Town water system. He has added Note 11 on sheet C2 of the plan that reads as follows: Water supply to the project will be provided by an on-site private well prior to construction of any improvements on the site other than necessary land clearing and well construction. The owner will provide the North Berwick Code Enforcement Officer with a letter from a well driller that states the following:

- A. A new drilled well with steel casing has been installed.
- B. The depth of the new well is _____ feet.
- C. The well has a yield of _____ gallons per minute.

If the well yield is equal to or exceeds 9 gallons per minute, a variable speed pump which meets the domestic water needs of the project will be installed. If the well yield is less than 9 gallons per minute, the owner will also provide a letter from a professional engineer which indicates the size of the pressure tank that needs to be installed to provide for the domestic water needs in conjunction with the well and pump.

Mr. Mende stated that they are hoping that they will not use a well and be able to connect to the town water supply.

Matthew Qualls asked if they would need a leach field if they have to use a well. Mr. Mende said that they would not because they are still connecting to the Town Sewer.

Acting Chairperson Whitten asked if using a well will still be adequate for use with the sprinkler system. Mr. Mende stated that it would be. They would use the same system that they

used in the Phase 1 project. Les Bodwell stated that they would have reservoir tanks housed in the utility room. Acting Chairperson Whitten asked how big the tanks were. Mr. Bodwell stated that they were about 300 gallons and it will hold 5 of them.

Chris Mende stated that on the original version of the plan for the preliminary design, the storm water plan and maintenance had been put together by Jay Stephens. Tom Harmon reviewed the plan and made a slight change. They originally had crushed rock catch areas below the eaves of the building for infiltration. Mr. Harmon removed these because he felt that they would be ineffective because of the ground water table in there. Mr. Harmon reviewed the natural filtration that was offered by the vegetation and he feels that this is more than adequate to meet the requirements that DEP imposes in their designs.

David Ballard asked if there will be any gutters installed. Les Bodwell stated that there will be some.

Acting Chairperson Whitten asked what they proposed to do since they don't know how the water and the sewer are coming across as far as the easement situation. Mr. Mende stated that they do know how the sewer is coming across and he pointed it out to her on the plan. He stated that it will be a pressure sewer.

Roger Frechette asked how far this well was from the other well. Mr. Mende stated that it is over 300 feet.

Dwayne recommended to the Board to approve the plan as is and if they do decide to go on town water they could submit a revised plan. He recommends doing it this way because it will be registered with the Registry of Deeds because it is a subdivision. Barry Chase agreed with Dwayne because it protects everyone if something happens in the future.

Barry Chase motioned to approve the final plan for LRB Multifamily to add a second 6 unit multifamily building locates at 62 Somersworth Road (Route 9) Tax Map 1 Lot 65 with the condition that prior to occupancy, the Town will need a copy of the easement with the sewer. Jon Morse seconded the motion.

Acting Chairman Whitten read the Findings of Fact into the minutes:

Findings of Fact
Subdivision Review
LRB Subdivision Phase II

The purposes of this ordinance are to assure the comfort, convenience, safety, health and welfare of the people, of the Town of North Berwick, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving

subdivisions within the Town of North Berwick, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this ordinance have been met and that the proposed subdivision will meet the guidelines of Title 30-A, M.R.S.A. sections 4401 to 4407. The subdivision:

On 11/23/2016 the applicant submitted a sketch plan application to the Planning Board an application for subdivision review. The application and plans were prepared by Civil Consultants and consist of:

Application for subdivision,
Waiver request which was for a High Intensity Soil Survey
Abutter's list
Secretary of State of Maine LRB Investments LLC (Bodwell) business summary,
Location map
Town of North Berwick Tax Map,

January 26th, 2017, the Applicant met for the Public Hearing review. Chris Mende of Civil Consultants presented the project. One person from the public spoke neither for nor against the project but was just interested in the location of the access which had already been established during a phase I project.

The Planning Board also acted on a series of waivers including the following sections of the ordinance submission requirements:

7.2.b.18 A soil and erosion control plan endorsed by the YCSWCD
7.2.b.19 A plan for the disposal of surface drainage waters, prepared by a Registered Engineer and endorsed by YCSWCD

The Planning Board voted 4-0 in favor of the Preliminary plan.

The applicant submitted the Final Review Application which was heard on February 16, 2017.

The applicant had provided an updated plan for the board to consider which included:

- The easement locations for a public bike and pedestrian line down the Old County Road, the easement for the Sewer line extensions from Nowell Street to the project.
- A note indicating a future easement along the property frontage on Route 9 for parking associated with the pedestrian easement.
- A Knox key box located on the front of the building.

The Planning Board voted to approve the project with a vote of _____ with the following conditions:

1. The applicant adhere to all written materials and verbal discussion presented during the deliberation of the project.

1.1 Will not result in undue water or air pollution. In making this determination, the Board considered the elevation of the land above sea level and its relation to the flood plains; the nature of soils and sub-soils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable State and local health and water resource rules and regulations;

This application will not impact any of the above noted environmental issues as all precautions under the state and local regulations have been taken in to consideration.

1.2 Has sufficient water available for the reasonably foreseeable needs of the subdivision based on the submission of information from a well drilling company.

The applicant provided a letter to the Planning Board during the Phase I process which indicated the site has enough water for the foreseeable future. The applicant has revised the plans to show a holding tank on the property for firefighting purposes similar to the one designed and used in Phase I.

1.3 Will not cause an unreasonable burden on an existing water supply, as noted above, the site will be on a well located property.

The letter from the Water District indicates there is enough supply to add this project to the system.

1.4 Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

The applicant has provided the necessary erosion control devices on the property and has provided a letter from Maine DEP indicating Chapter 335 rules do not apply during the Phase I process and this still holds true through the Phase II project.

1.5 Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;

The site is located on Route 9 a major road connecting Maine and New Hampshire. The applicant has also provided adequate site distance in both directions as shown on the plan as well as during the Phase I process.

1.6 Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;

The site is proposed to be tied into the Public System.

1.7 Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;

The applicant has engaged a private hauler for the trash and the applicant has proposed an onsite receptacle(s).

1.8 Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

This site is not located in the Shoreland zone. The applicant will also be providing an easement for the community to continue a trail linkage plan previously proposed in the Comprehensive Plan.

1.9 Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any;

Yes

1.10 The sub-divider has adequate financial and technical capacity to meet the above stated standards;

The Applicant has provided information indicating they have the capacity to develop the project.

1.11 Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of wetland, great pond or river as defined in Title 38, chapter 3, subchapter 1, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

(1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shore land strip narrower than 250 feet which is not plotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

(2) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as a general development or its equivalent under shore land zoning, Title 38, chapter 3, subchapter 1, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definition requirements of section 4401, subsection 1, on September 23, 1983;

N/A

1.12 Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;

N/A

1.13 Flood areas. Based on the Federal Emergency Management Agency's Flood boundary and Flood Way Maps and Flood Insurance Rate Maps, and information presented by the

applicant, whether the subdivision is in a flood-prone area. If the subdivision, or any part of it is in such an area, the sub-divide shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plat approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevations; and

This site is not located in the flood zone and is found in a Zone “c” which is unregulated.

1.14 Storm Water. The proposed subdivision will provide for adequate storm water management;

The applicant has provided information indicating that stormwater will be addressed appropriately.

1.15 River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, “river, stream or brook” has the same meaning as in Title 38, section 480-B, subsection 9.

N/A

1.16 Freshwater wetlands. All potential freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.

The applicant has avoided the disturbance of any wetlands mapped on the property.

Acting Chairperson Whitten stated that the motion should probably be amended.

Barry Chase motioned to approve the final plan for LRB Multifamily to add a second 6 unit multifamily building locates at 62 Somersworth Road (Route 9) Tax Map 1 Lot 65 with the following conditions:

1. Prior to occupancy, the Town will need a copy of the easement with the sewer.
2. The applicant will adhere to all written materials and verbal discussions presented during the deliberations of the project.

Jon Morse seconded the motion. VOTE: 5-0 Abstain: 1

Chairman Aleva came back onto the Board.

2. Review Previous Minutes:

Barry Chase motioned to approve the minutes of January 26, 2017 as written. Anne Whitten seconded the motion. VOTE: 5-0 Abstain: 1

6. Other Business:

There was no other business at this time.

7. Adjournment:

Anne Whitten motioned to adjourn the meeting at 7:20 pm. Jon Morse seconded the motion.

VOTE: 5-0

Roger Frechette
Planning Coordinator

Respectively submitted,
Susan Niehoff, Stenographer

Chairman Geoffrey Aleva

Barry Chase

Jon Morse

Anne Whitten

Matthew Qualls

David Ballard