

NORTH BERWICK, ME 03906

MINUTES OF PLANNING BOARD JANUARY 12, 2017

Present: Vice Chairman Anne Whitten, Jon Morse, Matthew Qualls, David Ballard, Roger Frechette, CEO

Absent: Chairman Geoffrey Aleva, Barry Chase

Also Present: Lorinda Hilton, Shirley Barto

1. Call To Order:

Vice Chairperson Anne Whitten will be the Acting Chairperson for tonight's meeting. She called the meeting to order at 6:30 pm.

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

2. Review Previous Minutes:

Vice Chairperson Anne Whitten stated that she found a few places where commas needed to be added. On page 2 in the last paragraph, the fifth sentence currently reads, "...the previous CEO, Larry sent them...". It should read, "...the previous CEO, Larry, sent them...". On Page 3, in the 1st sentence of the 3rd paragraph, there should be a “,” between the words Road to. Also in the 4th paragraph on this page, the 4th sentence should have a “,” between the words two, without. Also in this paragraph in the 7th sentence, there should be a “,” between the words consideration except.

Jon Morse stated that on Page 4 in the paragraph before last, the first sentence currently reads, "David Ballard asked if it was one entrance to the whole building.". It should read, "David Ballard asked if it had one entrance to the whole building."

Jon Morse motioned to approve the minutes of December 22, 2016 as amended. Matthew Qualls seconded the motion. VOTE: 4-0

3. Current Business:

3.1 Zoning Ordinance changes workshop

Acting Chairperson Anne Whitten asked Roger Frechette what the changes were that they needed to discuss. Roger stated that the first one was to allow chickens in any zone except Shoreland Zones. Acting Chairperson Whitten read the proposal into the minutes:

Add to Article 3.2 Definitions

Domesticated Chicken – Common domesticated fowl (*Gallus domesticus*) widely raised for meat and eggs.

Add to Land Use Tables:

Agriculture: Domesticated Chickens – Yes to all zones except Shoreland Zones

Article 5.2.22 Domesticated Chickens

The purpose of this article is to provide standards for the keeping of domesticated chickens (*Gallus domesticus*). The article is intended to enable residents to keep a small number of female chickens while limiting the potential adverse impacts on the surrounding neighborhood.

A. Keeping of domesticated chickens

a. Six (6) chickens shall be allowed per single-family property for each 40,000 sq. ft. of lot size.

b. In all multi-family complexes, chickens shall be allowed only with the written consent of all dwellers and property owner.

c. On all lots having more than 40,000 sq. ft, each additional 40,000 sq. ft. grants permission to keep 6 additional chickens.

d. All properties zoned Farm and Forest, do not have to meet the requirements listed above.

e. Only female chickens are permitted. No male chickens (roosters) are permitted.

B. Enclosures – Chickens must be in an enclosed, secure facility (i.e. henhouse, coop, pen) at all times. At no time shall chickens be kept in dwellings including attached accessory structures. Facilities shall be designed, constructed, and located on the site in the rear of the property and shall not be located within ten (10) feet of the rear or side property line. Facilities shall be located on the site in a manner that will minimize the adverse effects upon the surrounding properties and shall provide safe and healthy living conditions of the chickens. 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.

C. Waste storage and removal – Provision shall be made for the storage and removal, or composting of chicken manure.

D. Odor and noise – All other relevant “good neighbor” performance standards in this Ordinance (such as for noise and odor) shall also be observed.

- a. Odors from chickens, chicken manure, or other chicken-related substances should not be perceptible beyond their property boundaries.
- b. Noise from chickens shall not be a disturbance to abutters.

Jon Morse said that he didn't have a problem with allowing it in all zones except Shoreland Zones. Acting Chairperson Whitten asked him why it couldn't be allowed in this zone. She stated that they have dogs and cats so why couldn't they have chickens. Jon Morse stated that there have been a lot of problems with ducks and geese affecting the water quality, he doesn't think that they want to have chicken feces mixed in with it. Matthew Qualls said that he didn't think it would make a difference. Acting Chairperson Whitten said that she didn't see a problem with it as long as it was a certain distance away from the water.

Acting Chairperson Whitten questioned the reason as to why they could only locate them in the rear of the property. She said that some people's houses are set on the back of their land so they may not have the room in the back to have the chickens. However, they probably have room either on the side or the front of their property.

David Ballard asked what the penalty would be if someone does not abide by the Ordinance. Mr. Frechette said that it would be just like any other violation. He stated that it would have to go through the attorney and the fee would be determined by the Selectmen. Roger said that they do have some fees set up but it is mostly for building violations and not animal related issues. Jon Morse stated that it would be difficult to police or enforce it. The only way that we would know if there was a violation would be if one of the abutters complains to the Town Manager or CEO.

Acting Chairperson stated that she really doesn't like the part where it states that the pen needs to be located in the rear of the yard. She said that it should state that a side yard could be used in accordance to the setbacks. Matthew Qualls stated that it probably due more to aesthetics and how the town will look. He thinks that they may want to leave it as is so it doesn't affect the town's appearance. Jon Morse said that he thinks most people would want to put it in the back anyway to keep them out of sight. David Ballard stated that the development that he lives in has a Homeowners Association and they will not even allow it because of their bylaws.

The Board then started discussing the removal of the words Gallus domesticus from the proposal. Matthew Qualls said that if you don't include it in the definition then it could allow for all types of fowl such as guinea hens which are quite noisy. He recommended that it be kept in the definition but removed from Article 5.2.22. Acting Chairperson Whitten looked up the meaning of Gallus domesticus on her phone. It said that it was a type of domesticated fowl, a red species of the red jungle fowl. It is one of the most common widespread domestic animals with a population of more than 19 billion. She wondered how you can tell if a chicken is a descendent of the red jungle fowl.

Matthew Qualls also asked why it says domesticated chicken and not just chicken. He stated that he considers a chicken a domesticated animal and has never heard of a wild chicken. Roger Frechette agreed. Matthew Qualls feels that they should just remove the word domesticated and just say chicken in the whole proposal as well as remove the definition. Jon Morse stated that he thinks the chicken is the Gallus that they are talking about. It is being used to differentiate between a fowl, which is a big group of different birds, and the common chicken. Acting Chairperson Whitten stated that if we don't have a definition, then you have to go by the State's definition. She said that the State does not have a definition of a chicken. She spent many hours looking at all of the State statutes and there is nothing. She then went on to read what the definition of a chicken was from her phone. It is a domestic fowl kept for eggs or meat. She went on to read what Merriam Webster's definition was. It is a common domesticated fowl, Gallus Gallus. Acting Chairperson Whitten recommended that they just have the definition listed as follows:

Chicken – Common domesticated fowl (*Gallus domesticus*) widely raised for meat and eggs.

The Board agreed. They also agreed to remove the word domesticated throughout the proposal.

David Ballard asked if it mattered how large the coop was. Roger stated that anything under 120 s.f. does not require a permit so as long as they keep the coop under that amount and do not have a foundation, they do not need a permit. Acting Chairperson Whitten stated that they should probably include that information in this proposal. Matthew Qualls thinks that we should not include a limit on the size of the coops and let the Ordinance that deals with things like sheds take care of it. Acting Chairperson Whitten stated that she feels that a person should be able to look at this Ordinance and know what size their coop will need to be so they don't have to look in so many different places within our Zoning Ordinance to find it. She said that we could even just put in a reference as to where they can find it in our Ordinance.

Acting Chairperson Whitten stated again that she does not feel that it should say that they need to have them located in the rear of the house. Roger stated that they have to meet setbacks anyways so he doesn't see a problem with it. She stated that the third sentence under Enclosures that currently reads, "Facilities shall be designed, constructed, and located on the site in the rear of the property and shall not be located within ten (10) feet of the rear or side property line.". It will now read, "Facilities shall be designed, constructed, and shall not be located within ten (10) feet of the rear or side property line.".

Jon Morse motioned to approve proposal for Domesticated Chickens with the following changes:

1. Remove the word domesticated from the entire document.
2. On Article 5.2.22 Section B, the third sentence will now read, "Facilities shall be designed, constructed, and shall not be located within ten (10) feet of the rear or side property line.".

David Ballard seconded the motion. VOTE: 4-0

Acting Chairperson Whitten stated that the next proposal was regarding Building Permit Exemptions. She read it into the minutes:

Currently reads:

6.1.2 All applications for building or use permits shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose.

Proposed to read:

6.1.2 All applications for building or use permits shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose.

Exemptions: Notwithstanding language contained in the Maine Uniform Building and Energy Code (MUBEC) section R105, building permits shall be required for all structures except the following: (Structures exempt from permits shall be located in compliance with all zoning and floodplain regulations.)

1. One story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 120 square feet and the structure does not have a foundation shall be exempt from building permit requirements.

2. Non-structural repairs to existing structures (i.e. roofing, siding, painting).

Jon Morse stated that it is pretty straightforward. He suggested that we add chicken coops under the Section 1 of the exemptions.

Jon Morse motioned to approve the proposal for the Building Permit Exemption with the following change:

Under 6.1.2.1, they are adding chicken coops so that it will now read, "One story detached accessory structures used as tool and storage sheds, playhouses, chicken coops and similar uses, provided the floor area does not exceed 120 square feet and the structure does not have a foundation shall be exempt from building permit requirements."

Matthew Qualls seconded the motion. VOTE: 4-0

Acting Chairperson Whitten stated that the next proposal to review is regarding Category 3 Survey Change. She read it into the minutes:

Currently reads:

6.1.7 For construction of a principal or accessory building, application for a building permit must include a plot plan showing the location of proposed and existing structures to assure that setback requirements are satisfied. A category 3 survey will be required from the applicant or

contractor when the footing is inspected. No construction shall be placed upon the footing until the footing has been inspected.

Proposed to Read:

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. Upon submission of a Category 3 survey to the Code Enforcement Officer showing compliance with the Zoning Ordinance setback requirements, the building permit shall be issued for the structure. Any construction, other than foundation (footings, floor and walls), completed prior to submission of the Category 3 survey or building permit issuance shall be deemed in violation of this ordinance pursuant to Article 6.7 and subject to fines.

Roger stated that they have been having issues with people not getting their surveys until the last minute and finding out that their building is not in compliance. This is all new structures and has been the fault of the builder or the owner. He stated that the applicant is going to give him a set of plans for everything. Instead of one big permit, he will give them two. One will be for the foundation part. They can go ahead and build all of that and get the Category 3 survey before they start building anything. They can do it at fittings or they can do it at the walls. We want to at least stop people from adding the building before they make sure it is correct. Jon Morse stated that it is a good idea because it only helps the homeowner.

Jon Morse motioned to approve the proposal for the Category 3 Survey Change for their review. David Ballard seconded the motion. VOTE: 4-0

Acting Chairperson Whitten stated that the next proposal is regarding Subdivision Changes. Roger Frechette stated that people are giving him a lot of copies for no reason. He would like a digital copy because it is a lot easier to review a set of plans on the screen then it is to flip pages back and forth. If we need to have paper copies, we will make whatever amount we need to have.

The changes are as follows:

Under 5.2, the following sentence will be added, "A digital copy of the sketch plan shall be submitted."

Under 6.3, the last sentence currently reads, "Three copies of all information accompanying the plan shall be submitted." It will now read, "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."

Under 7.2, the first sentence states that “three copies” will be submitted but it will now read “two copies”. Also the sentence that currently reads, “In addition, one copy of the plan shall be reduced.” It will now read, “In addition, one (1) copy of an 11x17 reduced size plan and a digital copy of the plan, application and information shall be submitted.”.

Under 8.2, the sentence before last currently reads, “Also required one copy of the Final Plan reduced.” This sentence will be deleted and replaced with, “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.”.

Jon Morse motioned to approve the proposal for the Subdivision Changes. Matthew Qualls seconded the motion. VOTE: 4-0

3.2 Other Business:

Roger Frechette stated that the paperwork he gave them regarding the new law on marijuana is for them to bring home to review. It is a copy of the proposed moratorium that the Board of Selectmen are looking to do. They are waiting to see what is going to go on first with the State. We have to wait to see what the State will regulate before we decide what changes we will need to make.

Vice Chairperson Whitten stated she would like for them to work on coming up on a definition for farm animal instead of just having it as animal husbandry. She will do some research.

Vice Chairperson Whitten stated that the Bylaws for the Planning Board states that every year, they will vote in a President. When Chairman Aleva is back at a meeting, they should do a vote.

4. Adjournment:

Jon Morse motioned to adjourn the meeting at 7:38 pm. Matthew Qualls seconded the motion. VOTE: 4-0

Addendum:

Vice Chairperson Whitten called the meeting back to order at 7:42 pm. All Board members and public were still present.

After the meeting was initially adjourned, there was some discussion as to whether the changes should have all been read into the minutes. It was also discussed that the motions should not have been to approve the proposals but to motion to move them forward for the Board of Selectmen to review further. Vice Chairman Whitten asked the Board if they wanted to table it until the next meeting or do they want to read them into the minutes and change the motion. The Board agreed to take care of it tonight.

Vice Chairman Whitten read all of the proposals into the minutes.

(NOTE: The proposals that are being read here at this time were already included into the minutes.)

Matthew Qualls asked if they should change the previous motions to state that they are moving it forward instead of approving it. The Board agreed that a motion should be made.

Matthew Qualls motioned to change the previous motion and move all of the proposed changes discussed forward for the Board of Selectmen to review further. Jon Morse seconded the motion. VOTE: 4-0

4. Adjournment:

Jon Morse motioned to adjourn the meeting at 7:54 pm. Matthew Qualls seconded the motion. VOTE: 4-0

Roger Frechette
Planning Coordinator

Respectively submitted,
Susan Niehoff, Stenographer

Chairman Geoffrey Aleva

Barry Chase

Jon Morse

Anne Whitten

Matthew Qualls

David Ballard