

NORTH BERWICK PLANNING BOARD

MINUTES OF PLANNING BOARD SEPTEMBER 13, 2018

Present: Chairman Geoffrey Aleva, Anne Whitten, Jon Morse, Matthew Qualls, David Ballard, Annette Hume, Scott Strynar, Roger Frechette, CEO

Also Present: Danny Shaw, James Lowery, Curtis Moulton, II, Steve Blake, Chris Piecuch, Steve Spence

1. Call To Order:

Chairman Geoffrey Aleva opened the meeting at 6:36 pm.

2. Review Previous Minutes:

Anne Whitten stated that in the 2nd paragraph on Page 2, it currently states, "...introduced Mark Patterson from Adam Blaikie.". She said that we should probably add the rest of the company name. It will now read, "...introduced Mark Patterson from Adam Blaikie & Associates.". She also stated that on Page 5 in the 6th paragraph, the 2nd sentence needs some clarification. It currently reads, "He said that because of the 510 feet and law in October...". It now reads, "He said that because of the 510 foot and the upcoming law in October...". Anne said that in the same paragraph in the 6th sentence currently reads, "...where they are currently counseling, out of there the landlord will have no use for it.". There should be a comma added so it will now read, "...where they are currently counseling out of there, the landlord will have no use for it."

Jon Morse stated that on Page 8 in the 2nd paragraph, the sentence before last currently reads, "Jon Morse said that the doesn't like the idea...". It should read, "Jon Morse said that he doesn't like the idea...".

Anne Whitten motioned to approve the minutes of August 23, 2018 as amended. Jon Morse seconded the motion. VOTE: 5-0

3. Current Business:

3.1 Continued Review of a Conditional Use Application submitted by Calvin Akers and Chris Piecuch located at 50 Elm Street (Map 017 Lot 040)
Applicants are requesting to move East Coast Roots from the back of the building to the front of the building (formerly Home Town Video) and add additional space for selling apparel.

Chairman Aleva asked Roger Frechette if he had any comments regarding the project. Mr. Frechette stated that as far as adding additional space, they will actually need to separate the

spaces. Anne Whitten asked if they had to submit 2 applications. Mr. Frechette said that they could just use the same application. He stated that they are both the same owners. They are going to have counseling in one office and retail in a different office. He stated that they already have a conditional use permit for the counseling. They are just moving that one to a different location. Anne Whitten thought that they had discussed it at the other meeting. She thought that they couldn't act on the application at that meeting because they had to have separate applications. Roger said that the applicant wasn't sure what they were going to do at that time so they couldn't move forward anyway. Chris Piecuch stated that they wanted to move forward with Option #2.

Chairman Aleva said that the applicants have discussed their options and have decided to go with Option #2 that is indicated in their application. Right now, there is a wall in between and 2 separate doors to go into each space which is the change. There is a recommendation from the Town attorney and Town Manager, that if there is an approval tonight, the letter that was submitted to the Planning Board at the last meeting dated August 23rd be included as one of the conditions.

Annette Hume stated that it didn't look like there was a big change between Option #1 and Option #2. Chairman Aleva said that the big change is the door location. David Ballard asked if there was a camera on the back side or are there only the 2 cameras in the front. Chris Piecuch said that they are currently only in the front in the retail space. He said that they could put some in the counseling office but he is really not sure how that would work for privacy with the patient. He's not sure if it is just something that they can turn on when they are not servicing patients or when they are closed. David Ballard stated that the marijuana was going to be stored in the storage lockers in the counseling office so how would they monitor that. Mr. Piecuch said that they will not be keeping any of that overnight. He said that they could probably put the camera so it is not facing the desk where the patients would be. Chairman Aleva stated that he thinks they should have a camera on their safe and their storage lockers. Mr. Piecuch said they could do that.

Roger Frechette told the Planning Board members that he had provided them with a copy of the Conditional Use Permit that was approved on November 9, 2017 when they set up the counseling office they currently have. He stated that the applicant needs to follow the same conditions for setting up the new office. Chairman Aleva stated that they had 4 conditions that were established on their 2017 approval. They were:

1. The hours of operation will be Tuesday, Wednesday and Thursday from 2:00 pm – 6:00 pm and Saturday from 11:00 am – 4:00 pm.
2. There will be an operational security camera installed.
3. Locks on all doors and windows will be operational.
4. Better and brighter light to be installed at the entrance.

Chairman Aleva stated that they can also add any conditions if needed. He said that they do have the recommendation from the Town Attorney to include the letter from the Town Manager dated 8/23/18 be added as a condition.

Jon Morse asked if they had decided that they were going to have 2 people working at all times. Mr. Piecuch said they were definitely going to do that.

Matthew Qualls stated that he would like some clarification. He said that one of the things that was mentioned at the last meeting was that, "The permittee shall not use the premises to furnish or sell marijuana, prepared marijuana, or marijuana products to qualifying patients, as those terms are defined in 22 M.R.S. § 2422.". There was discussion about the sale of CBD products. He wants to make sure that the applicant is on the same page as the town and realize that they cannot sell CBD products in their retail store. Chris Piecuch said that he has had discussions with the Town Manager, Dwayne Morin and Roger Frechette regarding how the preparation of the CBD has to be in order to be federally legal. He stated that they will be following those guidelines on how it has to be prepared and what companies they can use. If the laws change, then they will adjust what they do. Roger Frechette said that our Moratorium does not allow caregivers to make the CBD products. They have to be able to buy them from a third party. Mr. Frechette said that it is then on the applicant to make sure that they are legal both on the Federal and State levels.

Anne Whitten said that the memo also stated, "Due to the close proximity of the land use to the North Berwick Elementary School, the proposed land use is 510 feet from the school property, I would recommend that the Planning Board consider conditioning the retail sale of any legal CBD edibles such as candy for the health, safety and welfare of the children of North Berwick.". She asked the applicant if they agreed to not sell edibles. Mr. Piecuch said that for the time being they will agree to not sell the candy form, but they do feel strongly that it should be allowed. He understands that people feel that if it gets in a kid's hand, it looks appetizing but there will be no children allowed in their store. He said that even if someone of legal age came in, bought some and then distributed it to kids on the street, nothing will happen to them. There is no physical risk to the children. The candy is non-psychoactive. There is no addiction, no high or potential abuse with it. He stated that, in order to get it approved tonight, they will forgo the candy and edible part. David Ballard asked if this would also include the coffee. Mr. Piecuch said that if someone buys it and they bring it home to brew their own coffee with it, there is not much they can do about that. He said that it is a fine line because then you come down to the CBD tinctures that can be given. Sometimes MCT oil can be perceived as being a touch sweet so where do you draw the line in being able to provide a useful medicine that is completely legal. He stated that the Federal and State governments have no problem with it if it is prepared right, but now there is more of a problem on a local level no matter how it is prepared unless it is powdered or CBD isolate. This means that a patient will have to go home and try to figure out what dosages mean what and how to prepare it correctly. Mr. Piecuch stated that since the store is not going to be accessible to anyone under 18, he doesn't feel that it should be an issue. He said that it is no

different than alcohol being purchased and being given to someone under age. He said that he understands that it looks a little scary but when you look into what it actually is, there are far bigger issues than that.

Chairman Aleva asked what the age restrictions were for CBD products. Annette Hume said that there were no age restrictions because there are no psychoactive ingredients in them. Mr. Piecuch said that they went with the 18 or older so that people would be more at ease with the retail part of it. Matthew Qualls said that, right now, everything is so new and there are so many cross breeds between the different plants so there could be something that gets into a product that shouldn't. He stated that they will never have the exact ingredients. Mr. Piecuch said that they would because they will follow the federal guidelines. Chairman Aleva said that it goes along with the 3rd party commercial and is regulated by the State of Maine. Mr. Piecuch said that it has to be 99.9% pure CBD.

Mr. Piecuch said that they would like to carry everything for the patients. He said that he wouldn't be surprised if they could buy some of these items already at places like Hannaford or Cumberland Farms. He said that if it is something that they need to put on hold, which he doesn't understand why, they will do so.

Chairman Aleva asked the Board what they wanted to do regarding the section that talks about CBD products. It can be found on the 2nd page of the memo from the Town Manager. It states that the "Planning Board consider conditioning the retail sales of any legal CBD edibles such as candy for the health, safety and welfare of the children in North Berwick." Matthew Qualls asked if they could add a condition that the applicant agrees to not sell the CBD edibles while the Moratorium is in effect. Chairman Aleva said that what they could do is say that the Board will not allow the sale of the candies until the Moratorium expires and they would need to return to the Planning Board. He said that they have to actually state that the applicant has to return to the Planning Board to let them know that they will now be selling the candies.

Chris Piecuch said that he knows a woman that is well versed on CBD. He was wondering if she could come in and help educate the Planning Board, Town Manager and others on the usage of CBD. Anne Whitten stated that she does not think that it is so much about the uses of CBD but more of the legal issues for the Town. She believes that it is because they are so close to the school. David Ballard said that his only issue is with the proximity to the school. Chairman Aleva said that, right now, he would probably only put a restriction on the candy. Jon Morse feels that they should get rid of the whole paragraph. He said that it doesn't matter if it is 500 feet or 5 miles away. If the kids want it, they will get it. He said that the kids will not get it from the applicant's store so he doesn't know why they can't just sell it now.

Matthew Qualls asked if they were dealing with the sign today. Chairman Aleva said that they don't typically deal with signs other than it has to follow our rules. He said that the sign that they are proposing is within our sign rules.

Scott Strynar stated that there is currently no door in the counseling area so they will have to put one in. He said that the door into Home Town Video is glass. Because this will be the safe and storage area, will they require that it be a solid door? Chairman Aleva said he doesn't think so and that the safe and storage are actually in the back room where the new door will be put in. Roger Frechette stated that it will also need to be a solid wall between the two spaces with no windows in the wall.

Jon Morse motioned to approve the Conditional Use Application for Calvin Akers and Chris Piecuch located at 50 Elm Street (Map 017 Lot 040) for East Coast Roots with the following conditions:

1. Letter for the Planning Board from Dwayne Morin dated August 23, 2018 to be included with the omission of the paragraph under CBD products that reads, "Due to the close proximity of the land use to the North Berwick Elementary School, the proposed land use is 510 feet from the school property, I would recommend that the Planning Board consider conditioning the retail sale of any CBD edibles such as candy for the health, safety and welfare of the children in North Berwick."
2. There will be a wall between the 2 spaces with their own entrance.
3. People need to be 21 or older to be in the retail store.
4. There will be a security camera to show the safe and the storage lockers.

Matthew Qualls seconded the motion.

David Ballard stated that he would rather not remove paragraph.

VOTE: 3-2

3.2 Public Hearing on a 39,000 sf parking lot expansion on land owned by Pratt & Whitney located at 113 Wells Street (Map 019 Lot 029)

Chairman Aleva asked Roger if he had any comments regarding the application. Roger said that they have received their approval from DEP so everything appears to be in order.

Steve Blake from BH2M who was the consultant on the project, stepped forward to discuss the project. He said that they got the permit from DEP a couple of weeks ago. The plan has not changed significantly since the last time they were here except regarding the comments about some of the tree species that they were using. They spoke with Pratt & Whitney's landscaper and they recommended a few changes to the screening trees along Wells Street and also with the internal trees. This is the only change on the plan. Everything else has stayed the same.

Chairman Aleva opened the Public Hearing at 7:16 pm.

There were no comments. Chairman Aleva closed the Public Hearing at 7:16 pm.

Scott Strynar stated that there was a question last time regarding the where the property line was. Mr. Blake said that it is inside the existing fence line. This is why they have the trees on the back side or the Pratt & Whitney side of the fence line. The right of way is inside the existing fence. Mr. Strynar stated that the 3” caliper Norway is huge.

Jon Morse asked Scott Strynar what a 3” caliper Norway Spruce was. Mr. Strynar said that Norway Spruces are normally purchased by height and not caliper. Caliper is the diameter of the trunk at dbh which is diameter and breast height. Mr. Morse asked how tall the tree would get. Mr. Strynar said that it would grow to about 60 feet in about 30 to 40 years.

Jon Morse motioned to approve the application for the 39,000 sf parking lot expansion owned by Pratt & Whitney located at 113 Wells Street (Map 019 Lot 029). David Ballard seconded the motion.

Chairman Aleva recommends that they add the following condition:

When the stormwater maintenance plan is called for by the DEP, they will also submit a copy to the town.

Jon Morse amended his approval to include the above condition. David Ballard seconded the new motion. VOTE: 5-0

4. Other Business:

Roger stated that they want to put an outside amphitheater at the school up here. There will be another medical marijuana counseling project coming.

Matthew Qualls asked about cell towers that are coming into town and what we do with them. Chairman Aleva said that they treat it like any other conditional use permit that comes before the Board. They make sure that they are following the Ordinance and add any conditions for things that they can control such as traffic.

5. Adjournment:

Jon Morse motioned to adjourn the meeting at 7:28 pm. Matthew Qualls seconded the motion. VOTE: 5-0

Roger Frechette
Planning Coordinator

Respectively submitted,
Susan Niehoff, Stenographer

Chairman Geoffrey Aleva

Jon Morse

Anne Whitten

Matthew Qualls

David Ballard

Annette Hume

Scott Strynar