

# NORTH BERWICK PLANNING BOARD

## MINUTES OF PLANNING BOARD NOVEMBER 8, 2018

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

**Also Present:** Louis Thibodeau, Jeremy Baron, Robert Harper, Morgan Harper, Jim Dowe, Michael Gaudette, Al Hodsdon, Carl Works, Sharon Litvinchyk, Larry Litvinchyk, Matthew Harriman, Rock Bisson, Rock Bisson, II, Aaron Wiswell

1. Call To Order:

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

2. Review Previous Minutes:

Jon Morse stated that on Page 5, the second sentence of the 4<sup>th</sup> paragraph currently reads, “Roger stated that they can’t exceed more than 3 per acre.”. It should read, “Roger stated that they can’t exceed more than 3 cattle per acre.”. He also stated that the next sentence that currently reads, He has not received any of the structures for the shelters yet.” should read, “He has not received any of the plans for the shelters yet.

David Ballard stated that on Page 4, the 6<sup>th</sup> sentence in the 5<sup>th</sup> paragraph currently reads, “Chairman Aleva asked how many gallons are in the tuck.”. It should read, “Chairman Aleva asked how many gallons are in the truck.”. Also on Page 4, in the last paragraph, the 5<sup>th</sup> and 6<sup>th</sup> sentences currently read, “They determine the flow of influxes. They also have test wells that are outside the wells and this is where they get the code of influx and determine if they are dropping down.”. They should read, “They determine the flow of influences. They also have test wells that are outside the wells and this is where they get the cone of influence and determine if they are dropping down.”. Mr. Ballard also stated that on Page 6, in the sentence before last of the 3<sup>rd</sup> paragraph, the word “invisible” should be “electrical”.

David Ballard motioned to approve the minutes of October 25, 2018 as amended. Jon Morse seconded the motion. VOTE: 6-0 Abstain: 1

3. Current Business:

3.1 Public Hearing of a Conditional Use Application submitted by Kennebunk Savings located at 8 Main Street (Map 019 Lot 029). Applicant is proposing to remove one light pole and add 4 new light poles.

Jim Dowe from Kennebunk Savings Bank stepped forward to discuss the project. He stated that they want to remove the older pole and add 4 poles for better security and lighting. Chairman Aleva stated that the Board had done a site walk prior to the meeting. They reviewed the location of the new poles and discussed the change of the building mounted lights. The applicant has submitted information regarding the lights. Chairman Aleva said that the lights will match the same style of lights that are in the park right next to the bank.

Chairman Aleva opened the Public Hearing at 6:36 pm. There was no public comment. Chairman Aleva closed the Public Hearing at 6:36 pm.

Jon Morse motioned to approve the Conditional Use Application for Kennebunk Savings Bank to remove one light pole and add 4 new light poles at 8 Main Street (Map 019 Lot 029). Anne Whitten seconded the motion. VOTE: 5-0

3.2 Public Hearing of a Conditional Use Application submitted by Natural Rocks Spring Water Ice to be located at 503 High Street (Map 004 Lot 080). Applicant is proposing 12' x 15' building to fill tanker truck for bulk water.

Chairman Aleva stated that the Board had a site walk prior to the meeting tonight. They reviewed where the building was going to go and the truck access to the building. They provided a plan that shows the proposed building location and plans for the building itself. Michael Gaudette from the Water District is representing Steve Tishner for the project.

Chairman Aleva opened the Public Hearing at 6:38 pm.

Larry Litvinchyk asked if the ice company was going to build the building or were we going to do it? Michael Gaudette stated that the applicant was paying for everything 100%. The Water District is not paying for anything. Sharon Litvinchyk asked if this was town water that they were selling and if the town was reaping any rewards from it. Mr. Gaudette stated that since they are a District, the money goes to them which helps the rate payers and it will help keep the rates down for the fire protection in the district. He said that they will also be taxed for the area that they are leasing. Annette Hume asked if they were going to sell it at the same rate. Mr. Gaudette said that it would be at 4 times as much. They currently sell water to their customers at half a cent and they will be selling it to Natural Rock for \$.02 per gallon.

Anne Whitten stated that the Water District is its own entity. The Town does not support the District at all. Mr. Gaudette stated that this was correct and they call it quasi-municipal. Ms. Whitten asked how this will actually help with the hydrants. She asked if all of the revenue from this will go towards the hydrants or just a portion of it. Mr. Gaudette said that a portion will go towards helping to keep the rates down for everybody. Ms. Whitten asked what portion of it would be allocated toward the rates. Mr. Gaudette said that the Trustees have not decided that yet. He stated that the other money is going towards their Capital Improvement Plan. They have to work on the infrastructures and put in some new mains and another tank for fire protection.

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

Annette Hume asked Mr. Gaudette who he was here representing. Mr. Gaudette said that he is representing Steve Tishner who owns Natural Rock. He stated that Mr. Tishner couldn't make it so he said he would answer any questions the Board might have on the project.

Matthew Qualls asked if the applicant was here to change the use of the property. Roger Frechette stated that it was for the building itself. He said that it is a commercial business so any commercial business needs to come before the Board to change anything. Mr. Qualls asked Mr. Gaudette if they currently sold water to other people or companies besides the people of the town. Mr. Gaudette said that they have sold water to pool companies.

Annette Hume said that the thing that concerns her is if it starts to show that the levels are getting low, the citizens may be asked to cut back on our usage. Mr. Gaudette stated that they would not. The residents will always be the first ones to get water. They would just stop selling to the companies. Chairman Aleva asked Mr. Gaudette to explain what the process was if there was a drought and how it was determined who got water and who didn't. Mr. Gaudette said that the priority will always be the rate payers and the town. They will be stepping up their monitoring. They measure the wells once a month which they now have to report to the State. They will also be putting some gauges and some weirs and will be monitoring the spring itself.

Annette Hume stated that it just seemed odd to her to have someone from the Water District here talking on the behalf of the private company. She feels that it is a little bit of a conflict of interest. Jon Morse stated that Mr. Gaudette is just explaining it to everyone because the owner of the ice company couldn't be here. Ms. Hume stated that the owner should be at least present at the Public Hearing. Anne Whitten stated that the owner of the company is just leasing the land.

Matthew Qualls asked Mr. Gaudette to explain how their system is set up to sell water to other people or companies. Carl Works, the Chairman of the Board for the Water District, stepped forward to answer. He said that they have a meter and they charge by the usage. He stated that there is a minimum charge that basically covers the cost for the pumping of the water, distributing of the water and any other infrastructure that goes with it. Anything beyond the minimum usage, they pay extra money for on a per gallon basis. It currently runs at about a half a penny a gallon. Mr. Works stated that they have sold bulk water in the past. They come in with an 8,000 gallon tanker, they fill it and they get charged a certain amount of money for that.

Chairman Aleva stated that the reason they are here before the Planning Board is because they are going to build a building to sell the bulk water. They are leasing the spot just for the building space. Mr. Qualls stated that they are not changing the use because they were selling water before. Mr. Works stated that when they sold it to pool companies, they usually hook up to a hydrant. He stated that they have had issues with people not properly shutting down a hydrant which creates a water hammer and causes leaks. This one will be a controlled system that will

actually slow the water flow down to a reasonable rate. It will be an appropriate filling station. Scott Strynar asked if this would eliminate any more hydrant fill ups. Mr. Works said that there would be no more hydrant fill ups for the most part. He stated that because of the nature of the system that the applicant needs, he cannot take a chance of having someone contaminate his water supply. The applicant will be purchasing all of the piping and everything else needed to do this so he can have a good, clean and pure supply of water to make his ice.

Matthew Qualls stated that he noticed that the road is gravel and not very wide. He asked if this was going to be a problem for the big trucks that will be coming in for the water. Mr. Gaudette stated that Natural Rock will be adding 4 more inches of gravel to their driveway for larger loads.

David Ballard stated that when they did the site walk they discussed having vehicle bollards but he doesn't see them on the plan. Mr. Gaudette said that there would be no bollards. There will be some poles that will be 5 feet into the ground with posts coming up in front of the building. Chairman Aleva said that he doesn't believe that they need any bollards because if they wreck their building, they wreck their building. It would not be our responsibility.

Anne Whitten said that it had been stated at the last meeting that they would be able to get water for certain hours. Chairman Aleva said that the hours would be 7:00 to 5:00 because they have a gate there. Ms. Whitten stated that their lease stated that they have access to it 24/7. Mr. Gaudette said that was correct but it would be mostly during 7:00 to 5:00. If there was an emergency and he had to get a load, it would be allowed. Mr. Works stated that the applicant has storage tanks at his facility in Eliot. If for some reason he loses a batch of water there, he may need to get more from us to maintain operations. Mr. Works stated that the way the operation works is that it is almost a continuous thing so he always has to have water on hand.

Jon Morse motioned to approve the Conditional Use Application submitted by Natural Rocks Spring Water Ice located at 503 High Street (Map 004 Lot 080) to approve the 12' x 15' building to fill tanker truck for bulk water with the following condition:

1. The hours of operation will be 7:00 am to 5:00 pm except for emergencies.

Anne Whitten seconded the motion. VOTE: 5-0

3.3 Public hearing of a Conditional Use Application submitted by HCJ Limited Family Partnership located at 38 High Street (Map 004 Lot 061). Applicant is proposing to create 4 pastures with shelters to raise no more than 45 head of cattle for beef products.

Robert Harper stepped forward to discuss the project. Chairman Aleva stated that they had a site walk before the meeting tonight. The applicant showed the Board members where the pastures will be located, how the cattle will be controlled and how access for the CMP right of way that goes through the property will be maintained.

Mr. Harper had a presentation to share with everyone. He introduced Jeremy Baron who is the owner and founder of Willow Brooke Farms. They want to have Piper Rose Ranch be included in the Willow Brooke Farms plans. Mr. Harper will be doing the day to day stuff with the cattle. He stated that they have families in town and they want to stay in town to raise their kids. Their intent is to support a sustainable agricultural area providing quality beef at a reasonable price, enhancing the town's long standing agricultural cultural history and nurturing future farmer's dreams through programs such as 4H. They have some friends, Ken and Laurie, who run KLN Farms on Quarry Road. They are working on starting a chapter of 4H based out of the Willow Brooke store.

Mr. Harper went on to show everyone an overview map that shows the current store, greenhouse and barn. These are included in 4 acres that conform to the square footage for the businesses. Immediately behind the barn, they would have a 2 acre pasture that they would construct first. Next to that, they would have a 3 acre pasture which would be Pasture 2. The structures that are shown on the map are going to be post and beam, 3 sided run-ins for the cattle to use to get out of the elements. Mr. Harper stated that, per the Town Ordinance, they can only have 3 cattle per acre, so they would only get their cattle as they have the acreage to put them on.

Mr. Harper said that they want to be community based. They want to be a 4H place. They want to be a place where people can come and get their locally grown beef. He stated that Jeremy Baron currently sells handmade wooden products such as furniture at the store. They want to support the home grown, homemade products.

Mr. Harper stated that they are looking at 3 different cattle breeds. One of them is the Simmental cattle which is a Swiss breed. They are a dual purpose cattle known for both beef and dairy but they would only use them for beef. The other 2 breeds would be the Red Angus or Black Angus. Mr. Harper said that they will create a manure bunker in the northwest corner of the property which is the farthest away from any abutters and water sources. These bunkers would be constructed out of large concrete blocks that they currently use for landscaping bunkers. Cow manure only takes 21 days to cook and then it is a useful product for landscaping material for fertilizer. He stated that it is a relatively low smelling manure. They would pile up anything from the run-ins and the fields in these bunkers. He said that it will not be a mountain of cow manure in the back of the field.

Mr. Harper stated that, prior to getting cattle, they will make sure that they have a large animal vet lined up for the cattle. They would also like to create a sustainable breeding program through the use of artificial insemination. They do not want the increased risk of having a bull on the property and they do have more control over what they get for a product for the next generation.

Mr. Harper showed them a picture of what the run-ins would look like. They would be 3 sided shelters slanted to have snow and water go off of it. They would probably have them face the east because there is a predominant wind that comes from the west. This would allow them to have more shelter. He stated that behind the red barn that is currently there, they would have a

shelter with movable pens to separate cows if needed such as for medical reasons or birthing reasons. Mr. Harper stated that their goal is to provide a local, pasture grass fed beef product that can be bought in bulk or individual cuts.

Mr. Harper stated that safety is a big priority for them. They will be using a high tensile 12.5 GA smooth wire. They would use 4-5 inch x 8 foot pressure treated posts. He said that it is pretty standard fencing that you can either dig a hole or drive them into the ground. He stated that the fence would be electrified and clearly labeled so nobody mistakenly touches it. They would put a post every 10 to 15 feet with 5 strands of wire. It is an overbuilt fence but they won't want to risk a cow getting loose.

Mr. Harper stated that, as far as the ends of the right of way, they want to keep it open so the power company or people that use recreational vehicles along the power line as a trail can still use it. They don't want to put a gate up. They will use a cow guard or cattle grid. For some reason cows do not want to go over them. These would be a secondary security feature. The way they will have the gates line up is that when they swing open they will create a chute between the pastures. This will be the first level of defense to prevent the cattle from getting through. The secondary level would be in the middle right of way where the cattle grid would be located.

Mr. Harper stated that at Willow Brooke, from pets to livestock and anyone that gathers at the table, their mission is to raise happy cattle, provide a nurturing environment for their animals to grow, produce a high quality beef at a reasonable cost to locals, provide a place for the community to come and learn about cattle and farming and reconnect with the town's long standing agricultural history. This town was built a lot around agriculture and he thinks that this would be a nice addition to that history of the town.

Mr. Harper stated that he looked at the town's Comprehensive Plan and there was a lot in there that brought up the resident's desire to have more agricultural ventures in town. He hopes that the public and the Board agrees.

Chairman Aleva opened the Public Hearing at 7:02 pm.

Matthew Harrihan stated that he just moved into town last May from California. He thinks that the cattle farm is a great idea. He said that he has already been to the store to get things for his animals. He has 10 horses. He feels that it would definitely increase the value of the town.

Larry Litvinchuk stated that he is their neighbor and he has no problem with this at all. The thing that he has a problem with is the limit of 3 cows per acre. He asked how they came up with that number. Roger said that it is in our Zoning Ordinance and was voted on by the residents.

Chairman Aleva closed the Public Hearing at 7:04 pm.

Matthew Qualls stated that he noticed when they did the site walk that they have big piles of stumps and wondered if they were going to remove them. Mr. Harper said that they were. Mr. Qualls said that he also saw plastic stuff that was used for water filtration around the property and asked about that being removed. Jeremy Baron said that he has been working on removing all of those for the past couple of years and are planning on removing it all. Mr. Qualls asked what they do with all of that plastic that they remove from the property. Mr. Baron said that he gets a dumpster from Oceanside and has them remove it once filled.

David Ballard asked if they had a kill switch for the electric fence. He is concerned about the snowmobilers hitting it accidentally so he wondered if there was going to be a fail-safe shut off. Mr. Harper said that they will have a safety feature installed with it and they will also look into having a monitor system. Neither Mr. Baron nor Mr. Harper live on the property so they would like something that will send them some kind of alarm so they can respond. Matthew Qualls asked if this is also what they would use to alert them if some of the cattle got out. Mr. Harper said that if the cattle did get loose, Matthew Harrihan lives nearby and has worked with cattle before. Mr. Harrihan said that he worked on a 100 acre ranch out in California and handled about 20,000 head of cattle so he has experience and is willing to help out if needed. Mr. Harrihan stated that the cattle guards are pretty effective.

Chairman Aleva stated that they have the power line that goes right through the property. He asked where the pathway for the ATV's and other vehicles was located and if it went back and forth. Mr. Harper said that it is straight and he pointed it out to him on the map. Chairman Aleva said that the reason he was asking is because they have the fence lines that are going to go through. They will need to keep them out of those lines because of the right of way. Mr. Harper said that they will give a wide enough path and have it clearly marked where they will be able to go through with no issues.

David Ballard asked about the manure being captured in a holding pen and if there was any grading or drainage for things like rain runoff. Mr. Harper said that it shouldn't be too much of an issue. They will cover it with a tarp to keep it protected so it is not totally washed out. Chairman Aleva asked Roger if this would be considered a structure and if it would have to meet setbacks. Roger said that it doesn't. Scott Strynar stated that it was just a block wall. He asked Mr. Harper if it was a dirt floor and Mr. Harper said that it was.

Jon Morse motioned to approve the Conditional Use Application submitted by HCJ Limited Family Partnership located at 381 High Street (Map 004 Lot 061) to create 4 pastures with shelters to raise no more than 45 head of cattle for beef products. Anne Whitten seconded the motion. VOTE: 5-0

3.4 Conditional Use Application submitted by Melanie Bisson located at 12 White Pine Way (Map 003 Lot 072). Applicant is proposing a new garage with an in-law apartment to be located along side of the garage.

Rock Bisson, II and Rock Bisson, Sr. stepped forward to discuss the proposal. They are looking to move his parents close by so they are looking to build a detached in-law apartment.

Chairman Aleva asked Roger Frechette if he had any comments or concerns regarding the project. Roger said that when the applicant brought this to him, he presented a picture of what the project would look like but is not exactly what they will have. Mr. Bisson, II said that it is just like the picture but the only thing that might not be on there is the little roof. Chairman Aleva asked if it was one story and the applicant said that it was. Chairman Aleva stated that the picture looked like it had a second floor. Mr. Bisson, II said that there is an attic and it is because it has a steeped roof so it matches the rest of the house.

Chairman Aleva stated that they had a survey that showed exactly where the house was going to go and the copy of the floor plan. He asked Roger if he had checked to make sure that it was no more than 650 sf and Roger said that it was. He said that the only issue is the unfinished storage areas. He is not sure if they are going to be able to use it at a later time. They are trying to make it a habitable space so may look at shrinking head room to not allow that to happen. The unfinished storage space is upstairs. Mr. Bisson, II said that they left the space there because they are trying to use the 650 sf for the living space. With a roof line like that, to keep up with the aesthetics, they thought that instead of having dead wasted space, it would be nice for his parents to have some storage area. The area is about the size of a closet so you can't really make it part of the living space.

Jon Morse asked if the septic system was all set. Roger said that they will have their own septic system so it won't be an issue. Mr. Morse asked about the water. The applicant said that they will be sharing the well. The well produces 20 gallons per minute so it is more than enough.

Scott Strynar had a question about the garage and living space. He asked if there had to be an elevation change for carbon monoxide. Chairman Aleva said that they had removed that from the code so it is not necessary. Roger stated that as long as there is a 2 inch pitch from the back to the front where the door is, you do not need to have the 4 inch step anymore. Mr. Strynar asked what they will be heating with and the applicant said it would be with mini slits.

Roger stated that he recommends that they stipulate that it can't be more than the 650 sf of living space and that they cannot create more habitable space than what is on the plan now.

Jon Morse motioned to accept the Conditional Use application submitted by Melanie Bisson located at 12 White Pine Way (Map 003 Lot 072) to build a new garage with an in-law apartment to be located along side of the garage with the condition that it not exceed 650 sf and it is all on the first floor. David Ballard seconded the motion. VOTE: 5-0

3.5 Amendment to Aroma Joe's conditional use permit to allow the second bay carwash door to be completed at a later date.

Chairman Aleva stated that the Board had a copy of the letter that was submitted by applicant. Roger stated that the applicant had come before the Board a while back but has run into a problem. The company that they ordered the door from could not install the door within the time frame that the Board had given them. The applicant is asking for more time. Mr. Frechette said that the applicant had received a letter and a statement from the company that he is getting the door from and they can't install it until late December 2018 or January 2019. Roger said that because he hadn't met the original condition, he had to close down the car wash for a couple of days. The applicant, Aaron Wiswell, needs to keep it going to make some money. Roger talked to the town attorney and the attorney said that he could stay in business as long as he had the letter from the door company. Roger also called the door company to make sure that the letter was valid and it is. He said that it is not Mr. Wiswell's fault that they don't have the door in yet. Aaron Wiswell stated that they are not normal garage doors. They are air driven and custom made.

Mr. Wiswell stated that they have a conditional use to have a car wash there and they have 2 years to do it. He knows that everyone wants the doors on so that it matches the other bay. He asked what the doors have to do with the use over there. Jon Morse stated that they were on the plan. Mr. Wiswell said that they weren't. Originally, they did not have doors showing on the approved plan. He stated that the car wash that is operating right now, they have it set so the doors shut but they could set it so they are open every day. He feels like the doors are a moot point. He said that they are still going to put them on because they have 2 years to finish the bay but he is wondering what the reason is behind it. Matthew Qualls stated that it had to do with the look of the town. If it was only half done it would not look great. Mr. Wiswell said that if it was full of equipment with no doors he could see that it would be an issue then.

Matthew Qualls said that he had no problems with granting an extension. The rest of the Board had no problems with it either.

Anne Whitten motioned to accept the extension to the amendment to Aroma Joe's Conditional Use Permit to allow the second bay carwash door to be completed by February 15, 2019. With that being said, if the applicant can bring in documentation stating that that the date is going to be later than the Planning Board gives the permission to the Code Enforcement Officer to make an extension for no longer than 6 months. Matthew Qualls seconded the motion.

Jon Morse doesn't like the 6 month stipulation. He thinks that they should stick to just the original set date.

VOTE: 3-2

#### 4. Other Business:

Roger Frechette asked the Board if they wanted to set up a meeting with the town attorney to explain the Medical Marijuana situation. He said that they cannot do it on a Planning Board

scheduled meeting night. He needs to have a couple of possible dates from them so he can give the attorney some options. Chairman Aleva asked Roger if he could also check to see if Lee Jay Feldman would be available to meet with the Board as well to go over the rules and regulations. They came up with the possible dates of 11/28, 11/29 or 12/3 around 5:00.

Roger said that Dwayne will be at the next Planning Board meeting to discuss more about the Medical Marijuana regulations.

Roger stated that the lawyers are now talking to each other regarding the permit for Eric Bergendahl. He stated that the intent that was given as a condition was not what the Planning Board actually intended. The wording had to do with handing out pamphlets but the real issue is a book that they wanted to keep in the store. The people could go through it and pick out what they want and try to sell it but the applicant cannot do this. Chairman Aleva stated that the attorneys are clarifying the fourth condition that they put on the permit. They are clarifying the verbiage. He stated that at their next meeting on December 13<sup>th</sup>, they will have an agreed upon clarification by all of the parties about what the condition should be.

5. Adjournment:

Jon Morse motioned to adjourn the meeting at 7:46 pm. David Ballard 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