

# NORTH BERWICK PLANNING BOARD

## MINUTES OF PLANNING BOARD JANUARY 24, 2019

- Present:** Chairman Geoffrey Aleva, Anne Whitten, Jon Morse, Scott Strynar
- Absent:** David Ballard, Matthew Qualls, Annette Hume, Roger Frechette, CEO
- Also Present:** Gussie von Wellsheim, Chris Mende, Clark Lee McDermith

1. Call To Order:

Chairman Geoffrey Aleva called the meeting to order at 6:32 pm.

2. Review Previous Minutes

Jon Morse motioned to approve the minutes of January 10, 2019 as written. Anne Whitten seconded the motion. VOTE: 3-0 Abstain: 1

Chairman Aleva moved Scott Strynar to a full voting member for the meeting.

3. Current Business:

3.1 Public Hearing – 6:30 pm

Clark McDermith, 217 Wells Street, Tax Map: 002 Lot: 059

The applicant applying for a conditional use permit for an Administrative Office/Residential

Chairman Aleva stated that they did have a site walk today prior to the meeting. He asked Jon Morse to provide some comments about the site walk. Jon Morse stated that the building is an old barn that has been totally renovated. All of the old timber, boards and other things that were previously there have been included in the building. There is a big open space in the front that faces Route 9. In the back are some offices and there are a couple of offices upstairs. Mr. Morse said that he has no problems with the project.

Chairman Aleva recused himself from this application because he works at Civil Consultants where the plans for the renovation were prepared. He will continue to moderate the hearing but will not vote on the application.

Chris Mende from Civil Consultants, representing the applicant Clark McDermith, stepped forward to review the project. He stated that there is an existing use on the property and is

located on Route 9. There are 2 buildings on the property. One is the barn where the business is located and there is a house. The property is in the Residential Zone and the business like Mr. McDermith's business, requires a Conditional Use Permit to be allowed in this zone. Mr. Mende stated that, presently, the building and the house are permitted under a Home Occupation. This means that the owner of the property has to reside on the property. As Mr. McDermith moves forward, he may not want to live on the property anymore but will still want to continue to have the business there and rent the house. They want to separate the uses so that they have a separate residential use and an Administrative office in the other building. Mr. Mende stated that, at the last meeting, they had presented all of the information regarding lot coverages, road frontages, site distances, parking, etc. He stated that all of those items seemed to be in order.

Chris Mende stated that they are not asking for any changes on the property except to allow the separation of the uses and to reclassify the uses. People just going by are not going to see any changes. They are not making any changes to parking, buildings or utilities. Mr. Mende showed the site plan to the public and explained where everything was located.

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

Gussie von Wellsheim stated that she is totally for the application. She doesn't see anything changing except for words.

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

There were several letters from other abutters that Chairman Aleva read into the minutes. They were from Robert and Megan Lambert who live at 208 Wells Street, Jane McLaughlin & Gussie von Wellsheim who own Carpe Diem Coffee Roasting, Dexter Littlefield who lives at 252 Wells Street, Caroline Littlefield who is a neighbor, Joan Stanton who lives at 251 Wells Street and Tom Creswell who lives at 191 Wells Street. Each of these letters is attached to the meeting minutes.

Jon Morse motioned to approve the Conditional Use Permit for an Administrative Office/Residential at 217 Wells Street, Tax Map 002 Lot 059. Anne Whitten seconded the motion. VOTE: 3-0 Abstain: 1

### 3.2 Public Hearing – 6:30 PM

#### Medical Marijuana Zoning Amendment and Street Design & Construction Standards Zoning Amendment

Dwayne stated that everything has now gone through the attorneys. He said that there were a lot of changes from the original draft to this final. Most of the changes were in the definitions. Dwayne said that we had tried to make the definitions as close to the State definitions as we could. He stated that 80% of the changes that the attorney did was to the definitions. There was

also a couple of other things that didn't go through. One of the things was regarding the signs. We didn't want them to have a marijuana symbol and all of the wording had to have the word "medical" in front of "marijuana". The attorney stated that this was unconstitutional so this has been removed.

Dwayne stated that it is designed like a menu so that people can choose none, one or up to the eight land uses that are being put forth to the townspeople to vote on. The only one that the Town cannot say "yes" or "no" to is the one regarding Home Cultivation which is Question #2. Dwayne stated that if the townspeople vote "no" on Question #2 it does not stop someone from cultivating at their house. All it does is put in standards if the town wants to regulate home cultivation. If they vote "no" we are not allowed to do that as a town. We cannot prohibit Home Cultivation.

Dwayne reviewed each of the questions that will be voted on. Question #1 is regarding Dispensaries. It is just to bring it in compliance with the State Law because our Ordinance was written 10 years ago. Question # 2 is regarding Home Cultivation. It is not to prohibit it but to provide regulations for it. It is limited to 120 square feet of a dwelling on a property. There are also some safety measures such as it needs to be enclosed and locked. They can't have commercial sales because it is not a commercial entity. However, they can grow it for themselves. If it is grown outdoors, it needs to be screened in which is part of the State law. They can use chemicals and pesticides but it has to be on the FIFRA list. They have to have odor and ventilation management to protect the neighbors and they need to make sure that the waste is disposed of properly.

Question #3 is related to Commercial Cultivation. It will only be allowed in the Village Center, Farm/Forest, Commercial District, Commercial II District and Industrial District. Commercial Cultivation is considered to be anything above 120 square foot in size. There is a size limitation for the vegetative footprint of 2500 square feet. In Farm and Forest, you can do Commercial Cultivation outdoors but everywhere else, it has to be indoors. It has to be in a closed locked facilities. They can collocate except for in Farm and Forest. Originally, we had stated that they could collocate but they had to be in distinct separate spaces. This has been removed because the State Law says that you can't do that. They are allowed to share certain things if they collocate such as utilities, lobby area, bathrooms and storage spaces. The growth areas have to be distinct and separate.

Question # 4 is regarding Medical Testing Facilities. These are only allowed in Village Center, Commercial District, Commercial II District and Industrial District and require a Conditional Use review. There are very little specific performance standards other than it can't be collocated with another Medical Marijuana establishment. There are no setbacks from sensitive areas.

Question # 5 is regarding Medical Marijuana Manufacturing Facilities. They are only allowed in Village Center, Commercial District, Commercial II District and Industrial District and require a

Conditional Use review. They cannot collocate and they need appropriate ventilation to handle noxious gases or fumes.

Question #6 is regarding Medical Marijuana Retail Stores. They are allowed in Village Center, Commercial District, Commercial II District and Industrial District and require a Conditional Use review. The maximum number allowed in town is one and there will be a lottery in order to determine who that will be. The store cannot have a drive-thru or provide delivery. It has to have a secured sales area. They cannot have anyone under the age of 18 unless they have a Medical Marijuana Card. There cannot be any cultivation within the retail store and there cannot be any collocation with another medical marijuana establishment.

Question #7 is regarding the Medical Marijuana Counseling Office which was a recommendation from the Planning Board. They are allowed in the Village Center, Commercial District, Commercial II District and Industrial District and require a Conditional Use review. There are no specific performance standards. However, in the definition, it states that no Medical Marijuana will be left on site, 2 or more Registered Caregivers are prohibited from collocating together and that it is a principal use. The idea is that is an office where they bring the product in and when they close the office, they bring the product with them.

Question #8 is regarding the licensing. The Selectmen held the Public Hearing on Tuesday night for this.

Anne Whitten asked what the difference was between a retail store and a counseling office. Dwayne stated that the Medical Marijuana Retail Store is a new use that the state has created and it is basically a storefront. A person can open up a storefront and sell medical marijuana from that storefront. Anne Whitten asked if a dispensary is different because they make their own. Dwayne said that a dispensary has to go through State approval. The primary difference is that a corporation can own a dispensary but a retail store is owned by a medical caregiver which is an individual. There are currently 8 dispensaries that are licensed in the State. Dwayne said that, that as of 12/13/18, they added another 6 licenses that are available. They have to go through the State standards for a dispensary. Mrs. Whitten asked if they still needed to be patients and Dwayne said that they did. He stated that the new Law does not have a limit on the number of patients any more for Registered Caregivers.

Anne Whitten asked what the difference was with the product between a dispensary and a retail store. Dwayne stated that they are both still caregivers so are still subject to the Registered Caregiver rules and regulations. Mrs. Whitten asked if the product was the same. Dwayne said that it was. He said that the State has basically just thrown it back to the towns to have them regulate it. He said that the State cannot handle the growth of this industry so that is why they have given the towns the chance to regulate it. The State will still regulate it at a high level in terms of license and all of the State Law things but are having the towns handle all of the day to day things. This way the towns have an option with what they want to do. They can decide to not do anything or they can decide to opt in.

Anne Whitten asked Dwayne if he had an idea of how much it has cost the town to put this all together. Dwayne said that it has probably cost about \$15,000 to \$20,000 which includes staff time. He thinks that the legal bill alone will be around \$10,000. Dwayne stated that we are now considered to be pacesetters because other towns are looking at what we have done. He said that we did take information from what Sanford and South Portland did and made changes from there. He believes that Sanford and South Portland did not have an attorney review their policy. He stated that we copied their definitions and our attorney changed about 90% of them to make them compliant to State Law.

Scott Strynar stated that we are limiting the number of retail stores to 1 in the town. He asked if there was another use in the town that we restrict to a certain number. Dwayne said that they did not.

Anne Whitten asked if it was the Selectmen that decided for the licensing fee to be \$1,000 and how we compared with other towns. Dwayne said that it was the Selectmen that decided on the fee. He said that we are not the highest fee around. South Portland is charging \$1500 and Sanford has different charges for different uses. They start at \$900 and go up from there. Dwayne said that most of the towns are between \$500 and \$2500. Dwayne said that they looked at about what it would cost the town to do the reviews including CEO time and yearly Public Hearings. When they added it all up it came out to about \$950 so the Selectmen decided on charging \$1000. Anne Whitten stated that they would not be making money to try and recoup what it cost to do this. Dwayne said they would not. He said that the idea behind the licensing is for yearly continuous review.

Dwayne stated that Question #9 is in regards to Street Design and Construction Standards. This is because language was omitted when we passed the original Ordinance. We have added "at the time of adoption (4/1/06)" because a private road was actually intended to be a private road as of 4/1/06. It was in there when they put it together but, for some reason, it disappeared when we published it. They have also added the name of each of the private roads in town.

Chairman Aleva opened the Public Hearing at 7:15 pm. There was no public comment. Chairman Aleva closed the Public Hearing at 7:16 pm.

Anne Whitten motioned to approve the Medical Marijuana Zoning Amendment and Street Design & Construction Standards Zoning Amendment. Scott Strynar seconded the motion.  
VOTE: 4-0

4. Other Business:

No other business at this time.

5. Adjournment:

Jon Morse motioned to adjourn the meeting at 7:19 pm. Scott Strynar seconded the motion.

VOTE: 4-0

Roger Frechette  
Planning Coordinator

Respectively submitted,  
Susan Niehoff, Stenographer

Chairman Geoffrey Aleva

Jon Morse

Anne Whitten

Matthew Qualls

David Ballard

Annette Hume

Scott Strynar