

NORTH BERWICK PLANNING BOARD

MINUTES OF PLANNING BOARD JANUARY 23, 2020

Present: Anne Whitten, Jon Morse, Matthew Qualls, David Ballard, Scott Strynar, Roger Frechette, CEO

Absent: Chairman Geoffrey Aleva

Also Present: Dwayne Morin, Cindy Versocki, Robert Versocki, Brian Clough, Mary Healey, Paul Healey, Jaimie Rowe, Kerry Briggs, Brendan T. Walsh, Nancy Walsh

1. Call To Order:

Vice Chairman Matthew Qualls will be the Acting Chairman for tonight's meeting.

Acting Chairman Qualls called the meeting to order at 6:30 pm.

Acting Chairman Qualls moved Scott Strynar up to full voting status.

3. Current Business:

3.1 The North Berwick Planning Board will hold a Public Hearing on the proposed Zoning Ordinance Changes for 2020 on January 23, 2020 at 6:30 p.m. The Public Hearing will be held at the North Berwick Town Hall at 21 Main Street, North Berwick, Maine in Room 212. The proposed Zoning Ordinance Changes for 2020 include the following:

Map changes:

a. Enlarge the Industrial Zone to encompass all of Map 2 Lot 31-1 (n/f Hussey Seating Property), Map 2, Lot 30 (n/f Newhall property) and the proposed Linscott Road Intersection location (n/f Weaver Property).

b. Remove Map 19 Lot 31 (n/f Ludington Property) from Industrial zone and move the Residential I zone line to encompass this lot.

c. Move Residential I lot line to encompass all of Map 2 Lot 33 (n/f Versocki Property).

Article Changes:

Table 4.3 – Dimensional Requirements

Add note to "Rear Setback when abutting a Residential Use" to include only Commercial and Industrial Uses.

Proposed Maps and Changes may be reviewed in the Town Clerk or Code Enforcement Office located at 21 Main Street during normal business hours. Proposed Maps and Changes are also available on the Town of North Berwick website: townofnorthberwick.org.

Dwayne Morin stepped forward to discuss the Zoning Ordinance changes. He stated that there were 2 changes that they were trying to accomplish this year. One of them is an Industrial Zone expansion and fixing some lot lines as it relates to the expansion. The other is a change to Table 4.3 Dimensional Requirements.

Dwayne stated that, currently if you look at our Zoning Map, the Hussey Seating lot is not all encompassed in the Industrial Zone. We have received a request from Hussey Seating to encompass their entire property under the Industrial Zone. They are contemplating expansion and would like the ability to utilize all of their land. The Board of Selectmen have looked at it and feel that it is in the Town's best interest. Hussey has been here for over 185 years. They are a valuable corporate citizen of our community and employ over 250 people at their facility.

Dwayne stated that the proposal is to encompass their property to bring it in the Industrial Zone line. The Town is currently in conversations with the Maine DOT to move the Linscott Road intersection from the current area down to the Weaver property. This is currently at the DOT for review. We hope to do this over the Summer and Fall if everything goes well. Dwayne stated that they will move part of the Zone line on the Ludington property to Residential. He stated that it is a single family home on the other side of the tracks and access doesn't really bode for any type of development other than Residential. They would move the Residential Zone to basically Route 9. At the same time, the Versocki property, which is adjacent to the Industrial Zone, is currently a split zone. We would just move the zone line instead of having 25 to 50 feet in the Industrial Zone so that it would all be in the Residential Zone.

Anne Whitten asked if this was brought to the Board of Selectmen from Hussey Seating and Dwayne stated that this was correct. He stated that they went back and pulled the Comprehensive Plan from 1990 which is our 2000 Comprehensive Plan and it had Hussey's property completely in the Industrial Zone. For some reason when they redid the map in 2000, it didn't include that.

Acting Chairman Qualls opened the Public Hearing at 6:36 pm.

Cindy Versocki stated that her and her husband Robert, have the property that is #33 on the map and it is the one that seems to be changing the most with this proposal. She was wondering how this will affect their taxes and what does going from Village B to Residential actually mean for the taxes. Dwayne stated that it will have no effect. Mrs. Versocki said that she has lived on this property for all of her life except for 8 years. She stated that, for many years, Hussey has been a tree farm. In her lifetime, the property has been clear cut 3 times by Dave Parker. This time, they cut almost 4 acres of land. With the zone change and all of the trees cut, if they decided to subdivide their property, would they have the proper variance to put in another house? Would they have enough road frontage and setbacks? Dwayne stated that it would have zero effect because all of their property is currently on Linscott Road. He asked how many acres they had and Mrs. Versocki said they have 8 acres. Dwayne stated that Residential I only requires 100 feet of road frontage and 1 acre of land. If they have 8 acres, they could possibly put multiple

dwellings on their property through a subdivision depending on what else is on the property. Cindy Versocki stated that 35-2 and lots 15 & 16 are really not affected by this new change. She asked if this was because they were in a different zone. Dwayne stated that there would be no changes to them.

Mrs. Versocki stated that, obviously Hussey is thinking of expanding their property. She does not want to see trucks, a lot of lights and people coming in and out of there causing a lot of noise. She wondered what the Town Ordinance stated about hours of operation. In an Industrial zone, Dwayne stated that it is 24 hours. She asked how come Hannaford couldn't have trucks between 10:00 pm and 4:00 am. Dwayne stated that it is because it is in the Commercial Zone. Anne Whitten stated that when these businesses come to the Planning Board for review, they can put restrictions concerning some of these issues. Mrs. Versocki stated that this would also open up for other businesses in the town to have their employees use this roadway. She does not want to see this happening.

Cindy Versocki said that Hussey had promised to put up a metal gate. However, there are currently 6 rocks, a wooden post and a rope that goes across the entryway. She feels that this is unacceptable. She said that when the work was done it was late November so they may not have been able to put in the gate that they promised. She would like to see a gate of some sort to keep people out of there. There have been cars that have tried to drive down in there and they have gotten stuck. Anne Whitten asked when and how had this promise for a gate been made. Mrs. Versocki said that it was on the first letter that went out to the abutters when the work had been previously done. Mrs. Versocki asked if this change in the zone was going to affect her property value in any way. Dwayne stated that it should not have any effect. Anne Whitten stated that it might have some effect. If Hussey decided to leave, it would definitely change the property value. Dwayne agreed that if Hussey was no longer in our community it would definitely have a significant impact on our taxes.

Paul Healey stated that he lives at 200 Wells Street that is next to the Weavers. By changing the zone from Village B to Industrial, does this open up the intersection for more industrial traffic? If there is a concern now with the level of traffic, by changing the zone do we increase the potential for additional traffic? Dwayne stated that the Linscott Road intersection is separate from the zone itself. The intersection project actually started about 7 or 8 years ago. Because of multiple accidents happening at that intersection, we had contacted DOT to find out what we could do with that intersection. It has less than 100 feet of site distance looking to the west and about 1000 feet of site distance looking to the east. The Town had actually asked for a speed limit change back in 2014 and the State denied it. We asked them again last year for a speed limit change and they denied us again. However, they did perform a safety assessment review. This involves sending out engineers to see what could be done at the intersection. As a result of that meeting, the DOT said that the best thing for us to do was to move the intersection eastward. We then contacted the Weavers and they were willing to sell us their property. This design that they are working with is to improve the intersection. Dwayne stated that, if the road is built it

could be used. Mr. Healey stated that by moving the zone from Village B to Industrial is there more of a chance of having more industrial traffic. Dwayne said that it would have the potential to increase traffic.

Mr. Healey asked if the zoning change was being requested for the road redesign or is it independent. Dwayne said that it was independent. If the area was not rezoned, the road intersection could still occur. Mr. Healey stated that the Weaver property was on the east side of Linscott Road and he believes that it is Village B now. Dwayne stated that it was actually Residential I. Mr. Healey stated it would be the only property on the east side that would be Industrial. He asked why it was being switched from Residential I to Industrial. Dwayne stated that it is now going to be town owned land. Mr. Healey asked about the piece of land that is currently in Residential I and gets changed to Industrial. He wondered if there were any new restrictions on that piece of land. Dwayne stated that every zone has its own restrictions. The Industrial zone is actually the most restrictive zone. Dwayne asked Mr. Healey what he meant by restrictions because the word restrictions is a pretty broad term. Mr. Healey stated that if it had been Industrial all along, there would be no questions. But it is moving from Residential I to Industrial so once the zoning change is approved is it like it has been Industrial all along? Dwayne stated that once they purchase the Weaver property and move forward with the road intersection, it now becomes town property. It is basically just going to be a vacant piece of land.

Cindy Versocki asked if there was going to be any kind of traffic light at the intersection of Linscott Road and Route 9 after they relocate it. Dwayne stated that the town had actually pursued having a traffic light put in but the DOT said no. In order to add a traffic light, it must meet 7 warrants and this intersection does not meet these warrants. It still will not meet them once the intersection is moved. One of the warrants is extreme amounts of traffic. Linscott Road currently has an average daily traffic on less than 100 cars per day. In order to get the warrant you have to be significantly higher than that.

Brendan Walsh has the property on Lot 16 and represents the largest border to Hussey. He cannot stand how much noise they make in the summer. When the windows are open, he can't stand how loud it is. He stated that they have been here longer than him and the other neighbors but he doesn't feel that this gives Hussey the right to expand into their back yard. Mr. Walsh stated that his land has wetlands on it and he is not allowed to develop. All of the water from his wetlands comes from Hussey's land. He stated that he has a verbal agreement with Hussey that their people are allowed to come onto his land and he is allowed on theirs. They have always been respectful. He stated that, when going onto their land, he noticed that they have basically decimated their vernal pools that create the wild lands. Mr. Walsh asked what sort of environmental protection has gone on with their land to make sure that they are not building where they shouldn't be. He stated that Hussey has asked for the zoning change. He said that they have already done a lot of work out there. They have leveled land and removed trees. It is not forestry that they are doing. They are getting ready to start their project. Mr. Walsh also stated that it will affect their property value. No one will want to move in next to a place that has

speakers blaring all day long. He stated that he also doesn't want to see them leave. He asked if Hussey has stated they will leave if they are not allowed to expand on this property. He does not feel that sacrificing all of the things that he has mentioned is worth allowing this change so that they can make a few more dollars. He asked if there was any other option that would avoid ruining the life of the abutters in that area.

Anne Whitten stated that we do have Performance Standards in our current zoning that addresses the noise issue. It states, "Excessive noise at unreasonable hours shall be required to be muffled as so not to be objectionable due to intermittence, beat frequency, shrillness or volume." She stated that all of this needs to go to town vote. It is not decided by the Board of Selectmen or Planning Board. If the town does vote and it is approved, Hussey would still need to come back before the Planning Board. At that time, the Board would listen to anyone and do what they can to make it work for both worlds.

Brendan Walsh asked when the last time was that someone had gone to see what they have done and compared it what we know is wetlands and water. He stated that Hussey is already building on that property and they are building on wetlands and nobody is doing anything about it. Dwayne stated that there are certain types of wetlands and certain types of wetlands are allowed to be filled and utilized. He stated that he spoke with Mr. Walsh's mother today and showed her their property. Somebody may have told them many years ago that they couldn't do anything on their property but that is not entirely true. There are rules and regulations as it relates to the value of the wetlands. This is not determined by the town. They are determined by the Federal Government and the State of Maine. Dwayne stated that on Hussey Seating's current property there are zero wetlands other than in one little corner of their property. What someone considers a wetland is not considered a wetland under the rules of wetlands. All of the wetlands are documented in our town and Dwayne told Mr. Walsh that he could come in anytime and he would review it with him.

Dwayne stated that there is currently nothing proposed by Hussey to build anything. There are no structures going up. Mr. Walsh stated that he knows that there is no structure but they have laid the foundation for a structure. Dwayne stated that they have not. Kerry Briggs stated that the area he is referring to is a logging area where they logged this fall. It was managed by Dave Parker who manages the 10 acre tree farm. It had been 11 years since they logged it last and as a registered tree farm, you have to log it every 10 years. What was harvested in that area was done with no input from Hussey Seating. It was totally managed by Dave Parker, the resident Forester. Jon Morse stated that there are things that you can do with your own property that you don't have to come before the town for approval. However, there are things that you can't do to your property without coming to the town. Hussey has done anything to the property that they own that requires them to come to the town for approval.

Nancy Walsh stated that they have lived on this property for about 27 years now. Her concern is that she is not sure how old the maps are that Dwayne mentioned. She stated that the information that they received when they first moved here is so different than what it is now.

They wanted to put up a treehouse and were told they couldn't do it. Her main concern is that changing that area to Industrial changes it forever unless Hussey decides to sell it to another company that may be even noisier or even more in their face. She stated that her husband wanted to have that land donated for natural use. They have a right of way to get to that property. She stated that they do not know where the water on their property comes from. She worries that we are going to lose a piece of environment. Jon Morse stated that if it gets approved and Hussey wants to build something there, he is sure that they will not get any water from that property. All of the runoff from the Hussey property will be diverted into something that will not run to their property. Nancy Walsh stated that a lot of the water that is on her property came from their area. She is worried that their vernal pool may dry up.

Brian Clough lives at 41 Linscott Road and have lived there for 13 years. The area is a quiet one. He said that it is a place where people walk with baby strollers, jog and bike. He is mainly concerned about the noise and the traffic. He hopes that when the town votes, they will take all of this into consideration.

Cindy Versocki stated that she would welcome anybody to come down to her property and she will show them how awful it is and how many trees have been cut. She can actually see the Hussey building from her kitchen and she could never see that before. She has been there the other 2 times that it was cleared by Dave Parker and he did not do that kind of cutting like he did this time. She stated that they have even thought about moving if Hussey builds something on that property.

Anne Whitten asked Dwayne if they had any information from Hussey as to why they want this to be zoned Industrial? Dwayne stated that they are looking at an expansion to their existing plant. Mrs. Whitten asked if he knew if it would be a noisy part of their plant. Dwayne stated that any proposal that Hussey wants to do will go through a significant review process. There will be a review here at the Planning Board level. There will be a review process at the State level because they will need to get an MDOT permit as well as a Maine DEP permit. He stated that this will be about a year long process with the State.

Dwayne stated that the next proposed change is more of a fix to our Ordinance. Our current Ordinance has a section in our setbacks that says, "Rear setback when abutting a Residential Use.". We have 3 current setbacks. There is a front yard setback, a side setback and a rear setback. On top of the rear setback, we have a rear setback when it is abutting a Residential Use. Dwayne said that the whole idea behind this is when a Commercial or Industrial Use goes next to a Residential Use, we expand that setback so it is not just a regular setback. Our Ordinance currently does not say this. The change is very simple. It states, "Rear setback when abutting a Residential Use will only apply when abutting a Commercial or Industrial Use.".

Acting Chairman Qualls closed the Public Hearing at 7:22 pm.

This will now go to the Board of Selectmen and they will put it on our Town Ballot for the April 4th Town Meeting. There will be another Public Hearing on 3/17.

David Ballard asked if the question about the intersection and about the setback change will be combined or listed separately. Dwayne stated that they are 2 separate items. The intersection issue will actually be 5 votes due to the land transfer component.

Jon Morse motioned to approve to send the proposed changes to the Board of Selectmen to review. Anne Whitten seconded the motion. VOTE: 4-0 Abstain: 1

4. Other Business:

Roger Frechette stated CMP will be back for the next meeting. There is also someone that wants to rent and possibly purchase the old bank on Main Street for a vacuum business.

At the last meeting, when the Board approved the Conditional Use permit for Stephen Mansfield, they did not include the list of conditions as part of the motion. They will now do it over.

Anne Whitten motioned to modify her previous motion from the last meeting. Jon Morse seconded the motion. VOTE: 5-0

Anne Whitten motioned to approve the application to Stephen Mansfield to add 4 additional 30' x 400' storage buildings located at 74 Portland Street Map 19 Lot 10 with the following conditions:

1. The plans need to have indication that the granted permits from the State and Army Corps with a permit number.
2. The applicant is required to provide Code Enforcement Office the information on construction oversight of the gravel wetlands.

David Ballard seconded the motion. VOTE: 5-0

2. Review Previous Minutes:

Jon Morse stated that on page 1 in the first sentence under Current Business, it current reads, "...Storage Buildings Locates at 74 Portland Street...". It should read, "...Storage Buildings Located at 74 Portland Street...". Scott Strynar stated that on page 2 the 4th sentence of the 2nd paragraph currently reads, "They got an RPA permit for the wetlands.". It should read, "They got an NRPA permit for the wetlands.". David Ballard stated that on page 4, the 2nd sentence in the 1st paragraph currently reads, "AVANGRID is purchasing already built dark and lit fiber optics to...". It should read, "AVANGRID is purchasing already built fiber optics to...". Jon Morse stated that on page 6 in the 4th paragraph under Other Business, the 3rd sentence currently reads, "...they vote to approve the liquor than it opens...". It should read, "...they vote to approve the liquor then it opens...".

Jon Morse motioned to approve the minutes of January 9, 2020 as amended. Anne Whitten seconded the motion. VOTE: 5-0

4. Other Business:

Roger stated that they will be looking at a proposal for a solar field at Gold Mar. They will have 18,000 panels.

5. Adjournment:

Anne Whitten motioned to adjourn the meeting at 7:45 pm. Scott Strynar 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

Scott Strynar