



BOARD OF APPEALS MEETING MINUTES

Wednesday August 15, 2018

Town Hall Meeting Room

6:30 p.m.

Call to Order

Pledge of Allegiance

Introduction of Board Members

Regular Board Members Present:

Ron Vigue; Diane Morrill; John Campbell; Pat Boisvert

Regular Board Member(s) Absent:

Russell Gagner

Staff Members Present:

Joseph Rousselle, Code Enforcement Officer

Approval of Minutes

- May 23 2018

Motion: Diane Morrill motioned to approve the minutes as presented.

Second: Pat Boisvert

VOTED – 4-0
Motion Passed

In Favor: Ron Vigue; Diane Morrill; John Campbell; Pat Boisvert

Opposed: None

Public Hearing

- Administrative Appeal – David Springer. 398 School Street, R3 Zone. Mr. Springer is appealing a Code Enforcement Officer decision to deny a permit for a Medical Marijuana Production Facility in a Garage.

David Springer's attorney Tammy Snow introduced herself. Ms. Snow said in January of 2017 Mr. Springer was approved to build a few buildings. Ms. Snow said there was overlap of buildings being built and finished, and prep work on the next building. After the Land Use Ordinance was amended, Mr. Springer was then told he could not grow Medical Marijuana.

Ms. Snow said that because the property is gated, access to the fourth building for any use other than Medical Marijuana would defeat the purpose of the gate, and reduce the value of the other buildings.

Mr. Springer said he was not aware of the Ordinance changes.

Ron Vigue read several exhibits and numbered each exhibit to be included in the record and file.

Joe Rousselle, Berwick's Code Enforcement Officer explained why the permit was denied. Mr. Rousselle explained the Berwick Planning Board defined Medical Marijuana in the Land Use Ordinance and this change was approved through the Selectmen and Town Vote. There was a discussion on how the permits were labeled and the fact that the allowed use was considered Agriculture.

Pat Boisvert read the definition of a Garage. The Ordinance states a Garage is an Accessory Use. Ms. Snow said Mr. Springer has been transparent and compliant through the entire process.

There was an extended discussion about State of Maine Medical Marijuana laws and Berwick's Land Use Ordinance. Mr. Springer shared the location of the buildings.

Robin Rainvill of 407 School Street is an abutter to Mr. Springer's property. Ms. Rainvill said it smells bad in the neighborhood. Ms. Rainvill said the smell is a major concern and it is impacting neighbors.

Lorraine Hughes of 404 School Street said she also would like to complain about the property, Ms. Hughes stated she cannot be in her backyard because of the smell.

Nicolas Wheat of 408 School Street said the property is lit up like a shopping mall at night and said the smell is horrible.

Alan Rainvill of 407 School Street said the water level at his property is down and agreed the smell is bad.

Dave Springer said carbon filtration was put in the buildings about a month ago, and that has helped the smell tremendously.

John Campbell read the information about Odor Control in the Medical Marijuana section from the Berwick Land Use Ordinance.

Ron Vigue said technically the new Land Use Ordinances would not apply to Mr. Springer if he was “grandfathered.” Mr. Vigue asked Ms. Snow if they could make Section 8.25 apply to all the buildings on 398 School Street as a Condition of Approval, Ms. Snow said yes.

Ms. Snow reinforced the statement by saying all the conditions of 8.25 will be met.

The Board of Appeals had an extended discussion amongst themselves to go over what was heard, and what the options moving forward are.

Motion: Diane Morrill motioned to grant the appeal with the condition the applicant meets all of the requirements of 8.25.

Second: John Campbell

John Campbell stated Mr. Springer was conducting his operation under the previous ordinance and the changes are not under his control. Mr. Campbell stated the applicant was acting in good faith.

Ron Vigue made an amendment to the motion to include all of the buildings in the amendment.

Motion: Ron Vigue made a motion to amend the motion.

Second: John Campbell

**VOTED – 4-0
Motion Passed**

In Favor: Ron Vigue; Diane Morrill; John Campbell; Pat Boisvert

Opposed: None

Motion: Diane Morrill motioned to grant the appeal with the condition meets all the requirements of Section 8.25 of the Berwick Land Use Ordinance and that all the requirements extend to all four buildings on 398 School Street.

Second: John Campbell

**VOTED – 4-0
Motion Passed**

In Favor: Ron Vigue; Diane Morrill; John Campbell; Pat Boisvert

Opposed: None

Adjournment

Motion: Ron Vigue motioned to adjourn

Second: Diane Morrill

**VOTED – 4-0
Motion Passed**

In Favor: Ron Vigue; Diane Morrill; John Campbell; Pat Boisvert

Opposed: None

Minutes prepared by Town Planning Technician James Bellissimo, for consideration at the Berwick Board of Appeals next meeting

Signed as Approved by the Board

Ronald Vigue, Vice-chairman

Date