



BERWICK PLANNING BOARD

MINUTES

May 17, 2012

PRESENT: Kerry Ashburn, Peter Perri, Judy Burgess, Paul Boisvert, Ron Morrell, Niles Schore, Alternate, Ken Poirier, Alternate, Attorney Bryan Dench, Kelton, Taintor & Abbott, Jim Webster, CEO and Joan Michaud, Planning Coordinator

Public Audience: 60+ attendees

Meeting was called at to order at 6:30 p.m. by Chairman, Kerry Ashburn.

MOTION by Kerry Ashburn, SECOND by Paul Boisvert to go into an Executive Session with their Attorney under 1 MRSA § 405 (6) (E).

Meeting reconvened at 7:35 p.m.

Attorney Bryan Dench read a letter aloud written to the Planning Board from resident Jodie Wright, 12 Wilson Street, regarding Judy Burgess. Ms. Wright requested that Judy Burgess recues herself from the Bateman Partners hearings and/or anything else relating to the Bateman issues in regards to the Town. Her request was based on Ms. Burgess' former position as the Planning Secretary for the Planning Board and felt, in her position, that Ms. Burgess was too close to the project.

Attorney Dench stated that he had advised the Board in the Executive Session about the legal standards for disqualification which did not appear to be the case with Ms. Burgess. Attorney Dench referenced Section 11.3 (B) of the Land Use Ordinance which states "When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the chairperson, the chairperson shall designate an alternate member to sit in that member's stead." He then referenced Section 11.3 (D) which reads "Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is being challenged."

Attorney Dench advised the Board to take a vote on whether Ms. Burgess should be disqualified and suggested that she should be allowed to speak to the matter and following that, each Board member could express their views on the subject and take a vote.

Ms. Burgess was asked by the Chairman if she felt she should recue herself. She stated that she would not recues herself and felt that she did not have any reason to recues herself. Ms. Burgess

said she was perfectly capable of providing an objective opinion on the Bateman project. She asked that the Board to also weigh in on her decision.

Each of the Board members were polled by the Chairman and each felt that Ms. Burgess was professional, has a lot of experience, is an asset to the Planning Board and could provide an objective opinion on the Bateman project. Chairman Ashburn asked the Board members to vote with a show of hands. No member opposed.

NEW BUSINESS:

- Sullivan School Associates LP / Bateman Partners, 45 School Street (Map U-4, Lot 142) :
Proposal to Amend Site Plan

Present: Nathan & David Bateman, Sullivan School Associates; Jim Fisher & Lee Allen, Northeast Civil Solutions; David Lloyd, Archetype; Attorney Ronald Ward, Drummond Woodsum; and Neil Orenstein, Port City Video

Attorney Ron Ward, on behalf of the applicant, presented the Amendment for site plan approval. Attorney Ward stated that there had been a breakdown with the Planning Board and they were there to fix it so the project to go forward. The project received site plan approval and permits have been issued but the prior site plan did not reflect precisely what the building permit was issued for.

The Planning Board was each given a binder which included the Application along with supporting documents. Attorney Ward guided the Board members through the binder.

The Google aerial map that was submitted in the Amended Application was discussed. Peter Perri asked approximately what the square foot was for the original existing school structure. Nathan Bateman stated that the existing structure was approximately 8,000 square feet and the addition footprint is 12,712 square feet.

Attorney Ward noted that the site plans by Northeast Civil Solutions have been updated including the elevation and floor plans which include the eight three bedroom apartments and the full size plans were available for the public to review.

Judy Burgess asked why the Application for Amendment that was presented to the Planning Board only addressed a revised Stormwater System, revised Building Addition Footprint and revised Parking Calculation and Layout and did not include the change from the number of units from two and to now three bedroom units that weren't on the original approval. Attorney Ward stated that the three bedrooms are all housed in the addition and the discussion was currently on the changes to the addition and he would get into the specifics in the Performance Criteria section of the presentation.

Paul Boisvert asked what the difference was in the footprint from the original 2010 plan submitted to the town and the current plan that was being submitted. Jim Fisher, Northeast Civil Solutions, passed out a sketch of what the additional square footage was as it relates to the original plan.

Peter Perri inquired about the Architect's stamp on the plans and asked if he had stamped the original plans. David Lloyd, Architect, stated that it was his stamp on the original plans as well as the revised plans. Peter asked whether or not the architect becomes the controller when the plans were submitted? David Lloyd stated he stamps the building plans and the engineer stamps the site plans. The architect does not verify the site plans, just the building plans.

Attorney Ward went through Exhibit A – Berwick Performance Standards for Site Plan Review which was included in the booklet submitted to the Planning Board and spoke on each ordinance.

Peter Perri asked whether or not a traffic study had been done for the project? Jim Fisher confirmed that a traffic count was done but a traffic study had not been done.

Attorney Ward noted under Municipal Services, the impact of 3 bedroom units to the school system. Included in the booklet, listed under Exhibit D, was correspondence from Paul Andrade, Superintendent of M.S.A.D. No. 60 School District addressing this subject.

Paul Boisvert noted that Mr. Andrade had estimated a figure of between 12 and 20 school-age children who might occupy the units and attend district schools and, in his opinion, the 12-20 students if spread over all or most of the 13 grade levels would not be a significant problem but could be a problem if the students were in the K-3 grades. Paul then asked if a study had been done on student population from Section 8 Housing. Nathan stated that the Sullivan School is not a Section 8 project. It is a LIHTC (Low Income Housing Tax Credit) Housing Project. Phoenix Management, a property manager for the Sullivan School project estimated that, in their opinion, there would be 12 children in the building at any one time.

Peter Perri asked about the calculations submitted under Section D, Exhibit A, and 'Expected Children Based on Management Company Averages'. Nathan stated that according to HUD, two people per bedroom are allowed. Peter noted that the worst case scenario should be considered which could be four children in a three bedroom unit, potentially 24 children, and not the averages that were used from other Phoenix properties.

Paul Boisvert asked what the tax revenue would be for the town according to the 2012 rate. Nathan stated that it had been determined that the tax revenue generated from the property would be \$32,000 and was determined by the Town's Assessor.

Judy Burgess asked for an explanation LIHTC housing. Nathan explained that the qualifications for rental would be a certain income requirement. An applicant would have to make between \$30,000 to \$40,000 a year to qualify to be able to rent an apartment with the rental amounts running from \$500 per month for efficiency to \$900 per month for a three bedroom.

Ron Morrell asked how, with the expected children, it was not going to increase the tax burden to the town by a minimum of \$60,000? Nathan Bateman referred to email correspondence from Keith Trefethen to Paul Andrade that was included in the application binder to answer that question.

Peter Perri pointed out that there is a growth ordinance in Berwick's Land Use Ordinance that limited the residential building permits to three in the R-3 District. Most of the town is within the R-3 District and there is control on the town's growth.

The original structured building had 47 bedrooms and with the 3 bedroom units, it comes up to 59 bedrooms, with 12 more bedrooms in the three bedroom configured building which equates to 24 additional children going into the school system from the original site plans. Nathan stated that they have to look at the averages in other buildings of this type. Ron Ward said he would ask Phoenix to go back and look at the calculation with the new three bedroom configurations.

Ron Ward submitted to the Board a letter from Thomas Chalmers McLaughlin, Ph.D., Associate Professor and Co-director for the Social Work Center for Research and Evaluation in the Department of Social Work at the University of New England. His letter addressed two hypothetical statistical questions; one concerning the probability of twenty children between the ages of 0 and 18 living in a particular housing project and what the statistical likelihood would be that all twenty children would be in the same grade in school and the second, the probability of all twenty children being in grades K through 3? The calculation for all twenty children being in the same grade is 2.8 and for all being in K through 3 is 9.7 percent chance of occurrence.

To address solid waste disposal, Ron Ward submitted a letter dated May 11, 2012 from Erica Bayley, Account Manager with Pine Tree Waste Services which simply stated that the company had adequate capacity to provide solid waste and recycling services to the Sullivan School project with the 1, 2 and 3 bedroom apartments totaling 34 units.

Jim Fisher addressed the sewage waste disposal requirements with regards to the amended site plans. He stated that there was an estimated increase of 186 gallons per day for the additional bedrooms. He said that an average three bedroom house would use 450 to 500 gallons per day. The plans were reviewed by Underwood Engineering and the Sewer District had confirmed that there was adequate capacity for the property.

With the permission of the Board Chair, Attorney Dench addressed a couple of questions he wished to be clarified with the developer. He asked Attorney Ward whether the Board could consider all data that had previously been approved in 2010 and confirm whether the applicant wished the Board to consider the previously submitted documents in so far as what is relevant and that things had not changed. Attorney Ward confirmed that the Board could rely on the evidence that was previously submitted and approved, along with what was now being presented, for this project.

Attorney Dench asked whether the revised building footprint had any effect on surface water drainage that had been addressed in the new submission. Lee Allen addressed the question by saying that the Stormwater Management Plan was created in May 2011 and was submitted and reviewed by the Town. The total increase currently in impervious surface is 3,750 square feet and most is gravel and unpaved. He stated that the report gives further explanation of where they were a year ago and how they got to where they are today.

In reference to exterior lighting, Attorney Dench asked Attorney Ward if any of the lighting had been changed with the revised building footprint. Attorney Ward confirmed from indication from the project engineer in the audience that there were no changes.

A Site Walk and Public Hearing were scheduled for June 7th with the Site Walk at 5:30 and the Public Hearing following at 6:30 p.m.

The Planning Board was given the name of three civil engineering firms that were qualified to assist the Board with a peer review of the submitted documents.

Attorney Ward issued an objection to the Site Walk and Public Hearing stating he felt that it was an Amendment to a Conditional Use that was already approved and it was being treated like a brand new application. Attorney Dench responded on behalf of the Board that they were simply following the steps outlined in the Ordinance.

Peter Perri asked Jim Fisher questions about previous site plans that were presented to the Planning Board regarding dimensions, silt barrier, catch basins, drainage structures on the property and whether a survey of the foundation had been done.

Jim Fisher requested that the Planning Board use Sevee & Mahar or Emerson Livingston for their peer review as they have worked with them in the past, they had a quick turnaround and there would be just a week to 10 days for the review to be done and for NECS to respond possible issues noted by the reviewer.

APPROVAL OF MINUTES

- Minutes – May 3, 2012: Pending

NON AGENDA ITEMS

- Brad Dudley, Jitter Mugs Drive Thru Diner, 503 Portland Street (Map 72, Lot 18) – Traffic Flow Change

Mr. Dudley submitted a revised plan for the flow of traffic around the diner and was looking for approval from the Board for the change. The Planning Board requested that dimensions be added on the drawing to give them a better idea of how far out and around the building the drive would go. There was some concern on where the leach field and septic system were located on the property and if they would be affected by the new traffic flow design.

COMMENTS

David Rodrigue, 12 Wilson Street, read aloud a letter dated May 16, 2012 that he wrote to the Planning Board for their consideration regarding the Bateman Partners May 11, 2012 Application for a Conditional Use Permit. He cited various sections of the Land Use Ordinance, his thoughts on each as they pertain to the Sullivan School project and requested the Planning Board to carefully consider and deny the permit.

Larry Rendell, 23 Blackberry Hill Road, felt that with the increase in traffic from the project, that the Wilson Street entrance would need about \$30,000 worth of work done.

Tom Lavigne, 46 Keay Road, questioned whether the developer had broken the lease agreement and felt that it should be investigated with Legal Counsel.

Bonnie Bishop, 22 Bobcat Lane, wanted to Board to be aware that the Batemans have not paid for the sewer connection fees in South Berwick for their 10 year old project there. She requested the Board to take as much time as needed to do a complete review of the Sullivan School project.

Dave Stolpe, 185 Hubbard Road, referred to the impact on municipal services exhibits presented by the developer and stated by his calculations, there could be a possibility of 47 children living in the housing project.

Andrea Burns, 55 School Street, felt that if the original plans had been presented with three bedroom units, than the lease would not have been approved by the town.

Jodie Wright, 12 Wilson Street, stated she had met with MSHA and felt that the Batemans had misrepresented the project to the town.

John Lapierre, 14 & 16 Wilson Street, stated that drainage is a problem on his property. His basement gets flooded and it is a major problem for him.

Roland Tibbetts, 494 School Street, felt that the water usage stated by the developer seemed low.

Louisa Sheldon, 65 Sullivan Street, said that the address on the agenda should be 45 School Street and felt that the statistics that were presented by the developer were incorrect.

The meeting adjourned at 10:12 p.m.


Kerry Ashburn, Chair