



## BERWICK PLANNING BOARD

### MINUTES

August 16, 2012

**PRESENT:** Kerry Ashburn, Peter Perri, Judy Burgess, Paul Boisvert, Ron Morrell, Ken Poirier, Alternate, Niles Schore, Alternate; Attorney Bryan Dench, Skelton, Taintor & Abbott; Joan Michaud, Planning Coordinator

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

#### PUBLIC HEARING:

- James Chandler / Conditional Use – Pole Barn, 31 Cincotta Lane (Map R-50, Lot 15)

Jim Chandler addressed the Board on his request to build a pole barn on his property that will be used for storage of his business trucks in the winter. Judy Burgess asked if she was correct in that a pole barn is a three-sided structure. Peter Perri inquired about the easement between the Chandler and Meyer's property. Jim stated that the easement goes with his lot and if he were to sell the property, the easement would revert back to the Meyers. There were no comments made from abutters and the Public Hearing was closed. A site walk was scheduled for Thursday, August 23 at 6:00 p.m.

- Matthew Cobb / Conditional Use – Owner Occupied Apartment, 64 Ridlon Road (Map R-25, Lot 17D)

Matthew Cobb addressed the Board on his request to convert the existing workspace over his garage into an owner occupied apartment. Mr. Cobb stated that he uses the space for storage but it has its own bathroom with septic. The Chair read a letter written to the applicant from the CEO stating that he was in violation of the zoning for having an accessory apartment without a permit with a fine of \$200. There were no comments made from abutters and the Public Hearing was closed. A site walk was scheduled for Thursday, August 23 at 6:30 p.m.

**EXECUTIVE SESSION**

Peter Perri made a Motion to go into an Executive Session per 1 MRSA § 405 (6) (E). Paul Boisvert Seconded the Motion.

Judy Burgess made a Motion to go back into the Planning Board meeting from Executive Session. Peter Perri Seconded the Motion.

**UNFINISHED BUSINESS:**

Bateman Partners LLC / Sullivan School Associates LP, 45 School Street (Map U-4, Lot 142):  
Amendment to Conditional Use - Continued

Present: Nathan & David Bateman, Sullivan School Associates; Jim Fisher, Northeast Civil Solutions; David Lloyd, Archetype and Attorney Ronald Ward, Drummond Woodsum

The Board continued their review of the Conditional Use Permit and Site Plan Review Decision Checklist (attached).

The Board extensively discussed Section 4-3 which would require the applicant to furnish an Irrevocable Standby Letter of Credit or Bond that would be used to support the cost of future expenses required by the Town including unexpected enrollment of students in the school system and increases that the Town might incur from the increase. The term limits and dollar amounts were discussed by the Board. In the end the Board agreed to a \$100,000 and to have the condition reevaluated after five years. Paul Boisvert requested that the following points also be included:

- Letter from CEO that any and all fines be resolved.
- MSHA process reports to be furnished to the CEO by the Developer.
- Review the Conditions and Findings of Facts before they are approved and then to be registered in Alfred along with the Plans.

The Board then discussed Section 3-B regarding the relationship of the proposed building to the environment. Ron Morrell voiced his opinion that the addition did not meet this requirement.

The Board turned to the Architect, David Lloyd, to give his thoughts on the design of the building and how it fits into the surrounding landscape. His professional opinion was that the building did meet the criteria of the standard.

Attorney Dench advised the Board that they could take a vote on the document in its entirety, on each item separately or just on item 3-B.

Ron Morrell then made a Motion that the Board vote on 3-B, Peter Perri Seconded and the Motion Failed with a 4- 1 vote by the members.

There was some confusion by the Board on the previous vote taken and after some clarification Ron Morrell made another Motion to vote on whether 3-B was satisfied. Peter Perri Seconded and the Motion Passed 4 -1.

Attorney Dench stated that an affirmative Motion to find that 3-B is satisfied was required. A Motion was made by Peter Perri, and Seconded by Ron Morrell, that the Board accept the verbiage in 3-B as written. The Motion Failed 4-1.

Attorney Ward requested to speak to the Board. He questioned whether if the 3-B verbiage was changed, it could then be accepted. He requested that the Board make a decision. He stated that the developer stands behind the design which has been certified by the National Parks Service and Historic Preservation Office and has been reviewed at the local, state and federal levels. He stated that the Letter of Credit was essentially an impact fee and in order for one to be issued, it would have to be very specific and clear and he personally felt that one would never be issued.

Ron Morrell made a Motion, Seconded by Peter Perri, to find that the 3-B requirement had been met. The Motion Failed 4-1.

Attorney Dench advised the Board that the Board having voted that one of the approval standards had not been met the Board should adopt findings of fact in support of that conclusion so that the basis of the Board's vote would be clear in the record.

Ron Morrell made a Motion that the project significantly expands the height, footprint and overall bulk of existing structures, giving due consideration to the slope, that is not harmonious to the terrain and existing buildings in the vicinity which have a visual relationship to the proposed building. Peter Perri, Seconded the Motion which was Passed 4-1.

Paul Boisvert made a Motion, Seconded by Peter Perri, to also find as a fact under criterion 3-K that the Project will have an unreasonable and adverse impact on municipal services of the Town; including schools or other municipal services. The Motion Passed 4-1.

Paul Boisvert then made a Motion, Seconded by Peter Perri, to deny the Application for the amended plan based on the Findings that the Board previously discussed. The Motion Passed 5-0.

**APPROVAL OF MINUTES:**

August 2, 2012– Approved

**OTHER:**

Floodplain Management Ordinance - A draft Floodplain Management Ordinance was provided to the Board by Janet Parker, from the Maine Floodplain Management Program. The draft ordinance includes an increase to the freeboard from one foot to three feet. It also includes a section that allows the town to set a fee for the development to help offset the cost of administering the ordinance.

The Board agreed to review the draft and schedule a Public Hearing on the matter at their next Planning Board meeting on Thursday, September 6.

The meeting adjourned at 10:58 p.m.



Kerry Ashburn, Chair