



PLANNING BOARD MEETING MINUTES

Thursday October 2, 2014
Town Hall Meeting Room
6:30 p.m.

Call to Order

Pledge of Allegiance

Introduction of Board Members

Regular Board Members Present:

John Higgins; Niles Schore; Judy Burgess; Paul Boisvert; David Dow

Regular Board Member(s) Absent:

None

Alternate Members Present:

Dave Andreesen

Alternate Members Absent:

None

Staff Members Present:

Joe Rousselle, Code Enforcement Officer; John Stoll, Town Planner

Approval of Minutes

- September 18, 2014

Mr. Boisvert noted that on page one "in the minutes should be added," and that on page 3 the spaces on the gas pumps were included on the property.

Motion: Chair Higgins made a motion to accept the minutes as amended

Second: Mr. Schore

VOTED – 5-0 in favor

Motion Passed

In favor: John Higgins; Paul Boisvert; Judy Burgess; Niles Schore; David Dow

Opposed: None

Abstain: None

Alternate: Dave Andreesen

Absent: None

Public Hearing

- Proposed 7 lot Major Subdivision
 - Fund of Jupiter 20 Sullivan Street (U-4, 146)

Chair Higgins opened the public hearing at 6:33 p.m.

Due the applicants representative being absent the public hearing was moved down on the agenda.

Chair Higgins closed the public hearing at 6:34 p.m.

Old Business

- Proposed 7 lot Major Subdivision – **Potential Preliminary Action**
 - Fund of Jupiter 20 Sullivan Street (U-4, 146)

Moved down due to applicant absence.

- Conditional Use Amendment – **Potential Final Action**
 - Longleaf Lumber 31 Commercial Drive (Map R-54, 29-1)

Lou Chamberlain of Attar Engineering represented the application.

Mr. Boisvert asked the applicant when they expected DEP permit approval. Mr. Chamberlain stated that he did not have an expected date for approval.

Chair Higgins asked what type of building was being proposed. Mr. Chamberlain stated that it would be a pre-engineered metal building similar to the existing buildings on the site.

Chair Higgins asked if the retention ponds proposed would be dry and maintained. Mr. Chamberlain stated that they would.

Mr. Schore asked if the owner would work with the Fire Chief to ensure emergency vehicle circulation and accessibility. Mark Poirier, owner of Longleaf Lumber, stated that he would.

Ms. Burgess asked about approval contingent upon DEP approval. Mr. Chamberlain stated that if there were concerns noted by DEP then they would return to staff to reconcile those issues properly.

Chair Higgins asked Town Staff if they would be notified of approval by DEP. Mr. Rousselle stated that staff would be notified by DEP one way or the other.

Mr. Schore stated that a condition of approval should be included that mandates approval of this application is conditioned upon the receipt of an approval letter from the DEP.

Mr. Stoll read the Findings of Fact, Conclusions of Law, and Conditions of Approval into the record. (This document is available through the Berwick Planning Department upon request)

Motion: Ms. Burgess made a motion to accept the Findings of Fact, Conclusions of Law, and Conditions of Approval.

Second: Mr. Schore

VOTED – 5-0 in favor

Motion Passed

In favor: John Higgins; Paul Boisvert; Judy Burgess; Niles Schore; David Dow

Opposed: None

Abstain: None

Alternate: Dave Andreesen

Absent: None

Motion: Ms. Burgess made a motion that the Board approve the amendment for Longleaf Lumber contingent upon an approved Maine DEP permit.

Second: Mr. Schore

VOTED – 5-0 in favor

Motion Passed

In favor: John Higgins; Paul Boisvert; Judy Burgess; Niles Schore; David Dow

Opposed: None

Abstain: None

Alternate: Dave Andreesen

Absent: None

Public Hearing

- Proposed 7 lot Major Subdivision
 - Fund of Jupiter 20 Sullivan Street (U-4, 146)

Chair Higgins opened the public hearing at 7:04 p.m.

Roger Clement of Verrill Dana, LLP and Chris Mende of Civil Consultants represented Fund of Jupiter.

Chris Mende stated that they are requesting a number of waivers due to the fact that no use or development has been proposed. Mr. Mende stated that a note has been included on the plan stating the following:

“Planning Board action is limited to approval of the creation of lots and lot lines as shown on this plan. Subdivision review did not include approval of specific structures, existing or new, or land uses or related impacts. No use or development of existing or future structures is permitted unless and until the landowner has obtained all approvals under applicable municipal ordinances.”

Mr. Mende stated that the intent of the note was to safeguard the public interest.

Jessica Taylor, Berwick resident, asked the applicant what the term “clean-up” meant and asked that it be explained simply. Mr. Clement stated that clean-up would be defined in this context: The site currently has environmental contamination and the EPA has funding to remediate this contamination through a Brownfields fund which awards grants for sites such as this. Remediation would include the removal of some structures and contaminated soils.

Eleanor Murphy, Berwick resident, stated that the clean-up may not all happen at once and asked how long that would take and what would happen if no more funds were received? Once the town “takes” the property would the town be liable for any contamination? Chair Higgins stated that he did not have an answer and that this question would best be referred to the attorneys or Board of Selectmen.

Dave Andreesen stated that the original application proposed was for four lots and the reasoning for this was due to the EPA limiting awards to a maximum of four lots. What is the reason for the change to a 7 lot major subdivision, why not limit this to four lots? Mr. Clement stated that he understood that clean up money could only be applied to three lots per year. Mr. Schore asked if it would be a minimum of three years before all lots could be remediated? Mr. Clement stated that not all parcels would require clean up funding. John Stoll, Berwick Town Planner, stated that through his meetings he understood that there could be 3 awards per year and that those did not have to be applied to only 3 specific lots.

Mr. Boisvert asked about a previous plan that was presented which showed specific uses. Does the applicant have preferences on potential uses that would be remediated first, and is the applicant aware that residents of the Town were interested in preserving the “stack” on the site? Mr. Clement stated that any development would be market driven based upon who would be willing to come forward first.

Eleanor Murphy stated that she believe the entire town wanted the site cleaned up. Ms. Murphy stated that she would like assurance that the Town would not be held liable if all lots were not remediated.

Dave Andreesen asked if the estimated cost of remediation exceeded the award amount would Fund of Jupiter assist the Town with the remaining balance? Mr. Clement stated that the Town retains the option to require the applicant to purchase the property back from the Town.

Mr. Schore stated that to clarify that the Town would have the ability to require the applicant to take back the parcel and would not be stuck with a contaminated lot? Mr. Clement responded in the affirmative.

Eleanor Murphy stated that the Town would have 45 days to offer the parcel back to the owner and then it would have to go out to public bid. The Board of Selectmen does not have the authority to authorize sale without Town Meeting approval.

Ms. Burgess stated that the warrant article the Town would be voting on in November would hold the specifics of any deal between the Board of Selectmen and the Fund of Jupiter. Mr. Clement stated that this was true.

Mr. Stoll stated that the Board should follow established protocol for public hearings and finish with any public comment before any further Board discussion.

Jodie Wright owner of 12 Wilson Street asked why there was no return address on her notice. Mr. Stoll stated that due to an error with the Town's mailing machine the notices were given to another employee to send out and the return address must not have been printed on the envelope. Ms. Wright asked if "we" were dealing with a business that has paid all of its taxes to the Town of Berwick? Mr. Andreesen stated that there is stay due to Prime Tanning's status in bankruptcy preventing Fund of Jupiter from paying the tax debt. Mr. Andreesen directed Ms. Wright to the frequently asked questions posted on the website. Ms. Wright stated that she would prefer that the Town of Berwick receive their back taxes owed prior to any deal with Fund of Jupiter.

Jessica Taylor asked about pink and blue colors presented on the subdivision plan. Mr. Mende stated that the pink was the exterior boundary lines of the property, and the blue was the division lines.

Chair Higgins closed the public hearing at 7:51 p.m.

Old Business

- Proposed 7 lot Major Subdivision – **Potential Preliminary Action**
 - Fund of Jupiter 20 Sullivan Street (U-4, 146)

Chair Higgins asked if there had been any further comments or issues that have come forth regarding the proposed subdivision. Mr. Rousselle stated that no additional issues have come forth.

Mr. Boisvert asked about proposed lot 6 and the fact that a portion of this proposed lot crosses into the Shoreland Commercial/Industrial District. Is the fact that the majority of the lot resides in the C/I district mean that this lot is in conformance with the dimensional requirements. Mr. Rousselle stated that this was correct.

Mr. Andreesen stated that this Board would only be voting on a basic subdivision with no proposed development.

Mr. Stoll asked that the Board vote on the individual waiver requests prior to granting approval.

Motion: Chair Higgins made a motion to accept the waiver request for article 7.2 submissions

Second: Ms. Burgess

VOTED – 5-0 in favor

Motion Passed

In favor: John Higgins; Paul Boisvert; Judy Burgess; Niles Schore; David Dow

Opposed: None

Abstain: None

Alternate: Dave Andreesen

Absent: None

Motion: Chair Higgins made a motion to accept the waiver requests for Article 11 Performance Standards

Second: Mr. Schore

VOTED – 5-0 in favor

Motion Passed

In favor: John Higgins; Paul Boisvert; Judy Burgess; Niles Schore; David Dow

Opposed: None

Abstain: None

Alternate: Dave Andreesen

Absent: None

Motion: Chair Higgins made a motion that the Board waive the Design Guidelines except for 12.8

Second: Mr. Schore

VOTED – 5-0 in favor

Motion Passed

In favor: John Higgins; Paul Boisvert; Judy Burgess; Niles Schore; David Dow

Opposed: None

Abstain: None

Alternate: None

Absent: Dave Andreesen

Motion: Chair Higgins made a motion to grant preliminary approval for the proposed 7 lot major subdivision

Second: Mr. Schore

VOTED – 5-0 in favor

Motion Passed

In favor: John Higgins; Paul Boisvert; Judy Burgess; Niles Schore; David Dow

Opposed: None

Abstain: None

Alternate: Dave Andreesen

Absent: None

Mr. Mende requested to be placed on the agenda for the next Planning Board meeting for Final Application.

New Business

- Decision Letter Approval-7 Lot Major Subdivision
 - Wedgewood Commons, LLC (U-3, Lot 9) Logan & Sullivan St.

Motion: Chair Higgins made a motion that the Board accept the decision letter

Second: Mr. Schore

VOTED – 5-0 in favor

Motion Passed

In favor: John Higgins; Paul Boisvert; Judy Burgess; Niles Schore; David Dow

Opposed: None

Abstain: None

Alternate: Dave Andreesen

Absent: None

Other

Mr. Stoll asked the Planning Board if they would consider hosting an initial CIP (Capital Improvement Program) meeting for November 6, 2014 from 6:30 pm – 7:30 pm.

Public Comment

Adjournment

Motion: Chair Higgins made a motion that the Board adjourn

Second: Ms. Burgess

VOTED – 5-0 in favor

Motion Passed

In favor: John Higgins; Paul Boisvert; Judy Burgess; Niles Schore; David Dow

Opposed: None

Abstain: None

Alternate: Dave Andreesen

Absent: None

The Board adjourned at approximately 8:20 p.m.

Minutes prepared by Town Planner John Stoll, for consideration at the Berwick Planning Board's October 2, 2014 meeting

Signed as Approved by the Board:

John Higgins

Date