



PLANNING BOARD MEETING MINUTES

Thursday November 20, 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

- November 6, 2014

Mr. Andreesen noted that on page 5 it was Mr. Boisvert that made a comment regarding proposed Land Use Ordinance changes and not himself.

Motion: Mr. Schore

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

Public Comment

Chair Higgins explained that public comment would be included at the beginning and end of each Planning Board meeting in order to give the public an opportunity to speak about any non-agenda items.

Public Hearing

- Conditional Use Amendment/Site Plan-Convenience Store Expansion
 - Cumberland Farms, Inc 42 & 48 School Street (Map U-2, 16&17)

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

John Marth, Project Manager of Cumberland Farms spoke on behalf of the applicant. Mr. Marth presented the application at this time.

Monique Knapp of 7 Allen Street in Berwick spoke at this time. Ms. Knapp stated that her primary concern was the trash dumpsters on the Cumberland Farms lot that overflow and spill on to her property. Ms. Knapp also stated that she had concerns regarding snow plowing where snow that was piled up along the property line destroyed a fence and spilled over onto her property. The absence of a fence has created issues with people cutting through her yard.

Mr. Marth responded to the questions presented during the public hearing at this time. Mr. Marth stated that the current plans show that all snow will be stored away from the property line and that all snow would be removed within 48 hours. Mr. Marth stated that there are existing landscaping features at the property line but had concerns that a fence would eliminate the landscaping; the applicant would be willing to provide either a fence or landscaping but may not be able to do both.

Chair Higgins closed the public hearing at 7:06 p.m.

Old Business

- Conditional Use Amendment/Site Plan-Convenience Store Expansion
 - Cumberland Farms, Inc. 42 & 48 School Street (Map U-2, 16&17)
 - **Potential Final Action**

Ms. Burgess asked Susanna Barnes (Traffic Engineer BPI) to speak about any traffic studies completed by the applicant. Ms. Barnes stated that driveway permits had been applied for and granted by Maine Department of Transportation (MDOT).

Chair Higgins stated that he had believed that both a privacy fence and landscaping would be provided along the property lines.

Mr. Boisvert asked about an existing 2 foot rear setback that was permitted when the original building was constructed and how that happened in the first place. Ms. Burgess stated that Berwick did not have a Land Use Ordinance (LUO) until 1986, and that there were no setbacks prior to that.

Mr. Boisvert stated that he was disappointed that impervious surfaces on the lot were not reduced with this project. Mr. Boisvert noted that the ordinance required 28 parking spaces, and that this project would have 22 spaces.

Mr. Boisvert noted that there was a landscaping plan submitted as public comment and asked the applicant if they had the opportunity to look at it.

Mr. Marth responded at this time. Mr. Marth stated that it would be difficult to provide parking spaces and at the same time reduce impervious surfaces at this location. Mr. Marth stated that the applicant would add trees to the Northern end of the lot as shown. Mr. Marth said that the applicant would look at irrigation as was suggested, but that it would be difficult to irrigate the small island near School Street. Mr. Marth stated that it would not be possible to enlarge the island at the intersection of 236 and Rt. 9.

Ms. Burgess asked about a note on a peer review letter from Jay Stephens of Civil Consultants had made regarding a gap between the landscaped island and the road; was the intention for this to be a sidewalk? Mr. Marth stated that the applicant did not plan to touch anything within the public right of way.

Ms. Burgess noted that a 6 foot vinyl fence was shown on the plan separating Cumberland Farms from the abutting property. Ms. Burgess asked Ms. Knapp if the applicant could not fit the landscaping and fencing on to the property line would her preference be for a fence over landscaping? Ms. Knapp stated that she would prefer the fencing.

Chair Higgins asked for staff comments at this time.

John Stoll, Berwick Town Planner, presented his report at this time. Mr. Stoll stated that he was comfortable that the applicant had responded to the issues/requests that were brought forth during the peer review. Mr. Stoll stated that the Berwick Fire Chief had provided a letter stating that they had no issues with the site design but would refer this to the State Fire Marshall's office. Mr. Stoll asked that a condition of approval be included on the plan that "no permits would be issued by the Code Enforcement Officer until verification is received from the State Fire Marshall that a plan was submitted and all concerns noted by the Fire Marshall have been addressed." Mr. Stoll stated that he had received verbal confirmation from the Police Department stating that they had no concerns with this project.

Mr. Stoll asked that a condition of approval be included stating "lots 16 & 17 must be formally merged prior to the issuance of an occupancy permit." The Planning Department would like a condition of approval stating that "the applicant will provide copies of Maine DOT approved driveway permits prior to the issuance of an occupancy permit." In light of the discussion with

an abutting property owner a condition of approval should be included that “the applicant shall provide a 6 foot vinyl fence to screen 7 Allen Street from Cumberland Farms.”

Mr. Schore stated that the peer review asked for confirmation that nearby wetlands would not be impacted by drainage. Mr. Stoll stated that he did not have concerns as long as the applicant did not increase impacts and did not expect anyone to solve the Town’s MS4 issues. Chair Higgins stated that there seems to be some improvement in drainage overall.

Chair Higgins stated that impervious surface at the site would be 82% lot coverage and that documentation should be made explaining how the nonconformity was permitted through this process. Chair Higgins stated that the setback nonconformity should be documented with this project as well.

Mr. Stoll read into the record the Findings of Fact & Conclusions of Law (Complete Findings of Fact & Conclusions of Law are available by request from the Berwick Fire Department.

Mr. Stoll asked the Board to make a motion and to vote on Article 7.7 Parking in light of the applicants’ waiver request.

Motion: Chair Higgins made a motion that the Planning Board accept the applicants request to lower the parking requirement from 28 to 22 parking spaces.

Second: Mr. Boisvert

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. Schore stated that the Facts in Article 7.16 Storm water Management should show how the applicant intends to address any potential impact to the referenced wetland on to which this site drains. Mr. Marth stated that it would be very difficult to guarantee that no issues would evolve from the wetlands, but that no increase would be created. Mr. Stoll asked the applicant if the wetlands storage is compromised and verified to have been created from their location that they would take steps to rectify the problem. Mr. Marth stated that they would.

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

Motion: Chair Higgins made a motion to grant the Conditional Use/Site Plan amendment

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

New Business

- ~~Conditional Use/Site Plan – Mini Storage Facility~~
 - ~~David Springer, 177 Rochester St. (R-45, 6B)~~

Scratch from Agenda

- Conditional Use – Owner Occupied Apartment
 - Leo Belair Jr, 215 Long Swamp Rd (R-7, 1-A)

Mr. Stoll made the staff report at this time. The applicant is requesting permission to construct an owner-occupied apartment at this location. The Berwick Board of Appeals granted a variance request to exceed the maximum 30% allowable for an owner-occupied apartment at this location.

Mr. Stoll stated that he was satisfied with the applicants' submissions and would advise that the application was complete at this time.

Leo Belair explained his project to the Board at this time. Mr. Belair explained that the property would be subdivided.

Ms. Burgess stated that there would have to be a condition of approval that the property must be divided due to the fact that there would be 3 residences on the lot. Ms. Burgess asked about an existing right-of-way and the possibility of 3 residences on this gravel right of way. Mr. Rousselle stated that an owner-occupied apartment does not fall under the Town's requirement for bringing a right-of-way up to town standards.

Motion: Chair Higgins made a motion to accept the application as complete

Second: Mr. Boisvert

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 Planning Board scheduled a public hearing for Dec. 4 2014. The Board scheduled a site walk at 9 a.m. on Dec. 4 2014 for this item.

Other/Non-Agenda Items

Public Comment

Adjournment

Motion: Chair Higgins made a motion to adjourn

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