



PLANNING BOARD MEETING MINUTES

Thursday September 18, 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:

None

Alternate Members Absent:

Dave Andreesen

Staff Members Present:

John Stoll, Town Planner

Approval of Minutes

- September 4, 2014

Mr. Schore asked that all discussion of proposed land use ordinance amendments with the Fund of Jupiter representatives be included in the minutes.

Chair Higgins made a motion to approve the minutes as amended. Mr. Schore seconded:

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

Public Hearing

- Proposed Amendments to the Berwick Land Use Ordinance

Chair Higgins opened the public hearing at 6:35 p.m.

Pat Boisvert of Blackberry Hill Road asked that the LUO amendments be summarized verbally for viewers at large.

John Stoll presented the proposed land use ordinance amendments at this time. Mr. Stoll stated that due to a timing error these proposed amendments would not be on the November election, but should be expected in May. (Proposed amendments to the Berwick Land Use Ordinance are available from the Berwick Planning Department or online under the Public Notices Tab from www.berwickmaine.org)

Judy Burgess noted that the Fire Department should provide input on any proposed changes to maximum height of buildings.

Mr. Stoll stated that any proposed changes to dimensional requirements in the R-1 District were being officially withdrawn at this time by the Planning Department in order to allow for more public input on the subject.

Chair Higgins stated that there were a variety of design standards being contemplated for low impact design of parking lots and driveways.

Chair Higgins closed the public hearing at 7:07 p.m.

New Business

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

John Marth, Project Manager for Cumberland Farms, represented the application. Mr. Marth stated that Cumberland Farms would acquire The Stone Agency parcel that abuts their lot in order to accommodate the expansion. Mr. Marth stated that they would conduct a minor relocation of a stream as a part of this project. After the redevelopment is completed the building would be approximately 4200 square feet. Half of that square footage would be dedicated to storage and the other to retail. The gas island configuration would not be changed as a result of this project. Mr. Marth explained that he had met with abutting property owners about the need to establish a construction easement behind the current building.

Chair Higgins stated that the Town's Storm water consultant should look at this application.

Chair Higgins asked Mr. Stoll if he believed that the application was complete. Mr. Stoll stated that he believed that it was complete.

Judy Burgess asked if the Board would hire a peer review for this application item. Mr. Stoll stated that he Board could request an official peer review.

Mr. Boisvert asked about the required setback in the C/I District and if it was in fact 25 feet then why the original building was approved for a 2 foot rear setback.

Chris Temoula of MHF design addressed the Board at this time. Mr. Temoula stated that there was a 25' rear setback in the C/I District, and that Town Staff had advised them that this expansion was acceptable. Mr. Stoll pointed out that a nonconforming structure may expand laterally as long as the nonconformity is not expanded into.

Chair Higgins asked the Town Planner to research the reason that the original building was approved for a two foot setback.

Paul Boisvert stated that this application should be included as a part of the Kittery Area Comprehensive Transportation System traffic study in downtown Berwick.

Mr. Boisvert asked about a requested waiver for parking from the applicants. Mr. Boisvert asked if parking at the gas pumps was included in the total parking count for this application. Mr. Temoula stated that those spaces were used to calculate overall parking.

Chair Higgins asked what sort of a vision (screening) fence would be used. Mr. Marth stated that the fence would be six feet tall and vinyl. Mr. Marth stated that Cumberland Farms would be enhancing the vegetative screening as a part of this project.

Chair Higgins stated concern with access points at this location. Heather Montecup of GPI, traffic engineer, stated that traffic information was retrieved from MaineDOT at the direction of the Berwick Police Department. Ms. Monteup stated that the two access points on School Street would help facilitate deliveries as well as improve traffic movement. The applicants are awaiting feedback from MaineDOT on the proposed access points.

Chair Higgins made a motion that the Board accept the application as complete, on a second from 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: None

Absent: Dave Andreesen

Pat Boisvert asked about proposed diesel pumps at the site and the possibility of large truck traffic increasing in the area. Mr. Marth stated that the reason for adding diesel was to

accommodate regular vehicles such as diesel Volkswagens and the like. Mr. Marth did not believe that large trucks would find this particular site appropriate for large truck traffic.

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

Lew Chamberlain, of Attar Engineering, represented the application. Mr. Chamberlain explained that the applicant is requesting an amendment to their approved conditional use and site plan. The applicants are proposing the addition of an outdoor storage area. Mr. Chamberlain stated that the applicant has applied for a site location and development permit from MaineDEP.

Ms. Burgess asked how many employees Longleaf Lumber had working for them. Mark Poirier replied that they employed 12 people.

Mark Poirier, owner of Longleaf Lumber, stated that they attempt to recycle all waste created at the site. Mr. Poirier explained that their business consists of reprocessing used lumber. Ms. Burgess asked if Longleaf Lumber had provided the flooring for the library. Mr. Poirier stated that they had provided the flooring for the library.

Mr. Stoll stated that the Board had the option to approve the amendment at this time or that they could hold a public hearing at the next meeting as well as schedule a site walk. Ms. Burgess stated that the Board should hold a site walk, but did not believe that a public hearing was necessary.

The Planning Board scheduled a site walk for October 2, 2014 at 5:30 p.m.

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

Scott Anderson, of Verrill Dana, represented Fund of Jupiter on this application. Mr. Anderson stated that Chris Mende of Civil Consultants has prepared the technical documents for this application. The current configuration shows seven proposed lots. The first step in this process is for Fund of Jupiter to seek Planning Board approval for the seven lots shown on the plan. Due to existing buildings on the lot a note will be included on the plan that prior to any use or building permit being issued the applicant would be required to return to the Board for a more detailed review. The applicants have requested a number of waivers due to no building or use being proposed.

Chris Mende of Civil Consultants stated that this was a “skeleton” subdivision. The applicants are asking the Board to review seven lots which meet minimum dimensional requirements but propose no use or construction at this time. The majority of the waivers are for submission requirements as well as Design Guidelines in the Berwick Subdivision Regulations.

Mr. Mende listed all of the waiver requests at this time. (All waiver requests can be found at www.berwickmaine.org under public notices tab- Fund of Jupiter, Tannery Row application) Mr. Boisvert asked about a note the Town Planner had included about a portion of Lot 6 bisecting the Shoreland Zone and thus requiring a 60,000 square foot minimum lot size. Mr. Boisvert stated that he believed that whatever zone the majority of the lot was in would apply.

Mr. Boisvert asked the applicant about a previous use plan that had been presented previously. Mr. Anderson explained that lots 1, 2 & 3 may be light industrial; Lot 4 would be parking and a through way; Lot 7 could be mixed use; Lot 5 may be quick serve; Lot 6 would be open green space.

Mr. Boisvert asked if any of the proposed lots could be sold by the applicant prior to or during the cleanup process. Mr. Anderson stated that the applicants are working with the Town and that the Town would take the property for back taxes in order to apply for EPA Brownfields funding in order to clean the parcel. Once cleanup is complete the Town would sell the cleaned property back to Fund of Jupiter. Mr. Boisvert clarified that the Town would receive their back taxes and potentially receive a clean site.

Ms. Burgess asked if there was a possibility that the subdivision plan would change. Mr. Anderson stated that this was likely based upon past projects he has experience with. Mr. Anderson clarified that any potential changes would be subject to detailed Planning Board review. Ms. Burgess pointed out that this application was time sensitive with a November deadline for Brownfields applications. Mr. Anderson stated that if this subdivision was approved then the applicants could not do anything with the site without further and more detailed review.

Mr. Schore asked the applicant if the Board approves the subdivision and the Town receives remediation grants could he envision a worse situation being created on the site. Mr. Anderson stated that the remediation on the site is a huge impediment to development and having a clean site would be an enormous benefit to the Town. Mr. Schore asked if it would be fair to summarize that the Town has nothing to lose going from the current situation to the proposed subdivision and remediation plan. Mr. Anderson stated that this was a fair assumption.

Mr. Boisvert asked why it has taken Fund of Jupiter so long to go from taking the property in bankruptcy to now two years later deciding to develop. Mr. Anderson stated that the owner of Fund of Jupiter is mostly involved in investment and is not a real estate developer. After some time Mr. Kehaya has received enough input based upon the Town's visioning process to start to develop a plan for the property.

Mr. Boisvert asked why the Town doesn't foreclose on Fund of Jupiter to take ownership and then go through remediation on their own. Mr. Boisvert stated that he believed that it was because the Town would not receive tax funding and that it would take considerable acquisition of municipal staff to handle the project on their own.

Chair Higgins asked the applicant to explain what the clean-up procedure would consist of. Mr. Anderson stated that the Town would apply for clean-up funds, and then they would have to evaluate exactly how intensive and where clean-up would take place. Mr. Anderson stated that there would probably be a lot of demolition on lot 6 but couldn't speculate on the entire lot. Chair Higgins asked if all lots would be remediated as a result of this project. Mr. Schore stated that he thought it could take several cycles of funding to entirely remediate the entire parcel. Mr. Stoll advised the Board that review should be focused on the technical aspects of the submitted subdivision. Speculation by the Planning Board on issues that the Board of Selectmen are responsible for could be confusing to public.

Mr. Boisvert asked if there would be any trouble for future review created by allowing for so many waivers on this application. Chair Higgins explained that the note included on the plan

explains this specific situation and prevents any development of the property without Planning Board review.

Chair Higgins made a motion that the Board accept the application as complete and schedule a public hearing; on a second from 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: None

Absent: Dave Andreesen

Mr. Schore requested that the Town Planner post the application documents on the Town's website.

Chair Higgins requested that the applicants provide .dwg files for of the subdivision upon final approval.

The Planning Board scheduled a Public Hearing for October 2, 2014 at 6:30 p.m.

Other

Chair Higgins explained some meetings that had taken place between himself and the Town Planner. These meetings are mostly devoted to proposed amendments to the LUO and Subdivision Regulations as well as handling procedural issues for Planning Board meetings. Chair Higgins had asked Mr. Stoll to draft a memo that could be shared with the entire Board summarizing these meetings. This memo is public record and can be provided by the Planning Department at request.

Public Comment

Adjournment

Mr. Schore made a motion to adjourn; Mr. Boisvert seconded:

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

The Board adjourned at approximately 9:45 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