



PLANNING BOARD MEETING MINUTES

Thursday August 20, 2020

Burgess Meeting Room, Berwick Town Hall

6:30 p.m.

Call to Order

Pledge of Allegiance

Introduction of Board Members

Dave Andreesen; Nichole Fecteau

Regular Member Absent: Sean Winston; Frank Underwood; Michael LaRue

Alternate Member Present: David Ross-Lyons (voting member)

Staff Members Present: James Bellissimo, Director of Community Development & Planning; Jenifer McCabe, Code Enforcement Officer

Public Comment

Approval of Minutes

- August 6, 2020

Motion: David Ross-Lyons motioned to approve the minutes as presented.

Second: Nichole Fecteau

VOTED – 3-0 in favor

Motion Passed

In favor: Dave Andreesen; David Ross-Lyons; Nichole Fecteau

Opposed: None

Abstain: None

Public Hearing

- Site Plan Review. Adult Use Marijuana Cultivation Facility. 11 Pond Road (R70-16) RC/I Zone. CAF Realty of Maine.

Alyson Graybill, 10 Pond Road, said the application does not meet the Comprehensive Plan. Ms. Graybill said the Comprehensive Plan's intent for commercial activity is to be restricted to major highways: Route 4, 9, 236 and the Village District. The Plan sets out to protect small town atmosphere and rural character.

Ms. Graybill forwarded the following passages in support of the statement the application does not conform to the Comprehensive Plan:

Page 45 Section 2.4 – Preserve intangible aspects including rural quiet and sense of security, which contributes to the rural character of Berwick.

Page 46 – “Through a set of performance standards work with business to minimize the environmental impacts...”

Page 46 4.1A – Determine possible new sites for commercial and industrial parks along major highways that would not conflict with residential areas.

Page 57 – “Increase the tax base without compromising Berwick’s small-town atmosphere or open spaces.”

Page 67 – “Another goal of land use planning is to assure compatibility of adjacent land uses and reduce or minimize conflicts between incompatible adjacent uses.”

Page 68 – Definition of RC/I District – Specifies along Route 4 corridor.

Strategy 7 (2004 Update) – Promote acceptable industrial/commercial growth along Route 4.

Ms. Graybill said this application will adversely impact her home and neighborhood.

Jerry Graybill addressed the Conditions of Approval. Mr. Graybill requested the water meter have a lock on them so the meter cannot be bypassed. Mr. Graybill pointed out secondary containment and safety data sheets were not included in the conditions.

Ben Gauthier of 2 Pond Road introduced himself. Mr. Gauthier said the application is not congruent with the Town’s Comprehensive Plan. Mr. Gauthier said the minimal benefit to the Town does not match the cost to the neighborhood.

Paul Amatucci of 12 Perrys Way said he can see where the proposed building would be from his yard. Mr. Amatucci said there is a large interest in the neighborhood evidenced by the fact that two site walks were required because of the amount of people who were in attendance. Mr. Amatucci said there are issues still unresolved and the fact that it has been months and there are still issues unresolved speaks to the fact the project does not fit. Mr. Amatucci said property values will decline because of the marijuana cultivation facility. Mr. Amatucci asked how the Town can monitor tenant growers and expressed concern for nuisances and security issues. Mr. Amatucci said an alarm went off at Kind Farms for 45 minutes during the 4th of July.

Keith Richard introduced himself as the representative of Marlene McDonald and Heidi Leveille. Mr. Richard said the facility would ruin the quiet solitude in retirement of Ms. McDonald and he urges the Board to vote no because of the issues with the standards and complaints raised. Mr. Richard said the Board has discretion to approve or deny the

application. Mr. Richard said the Comprehensive Plan states a goal set out by the plan is to minimize incompatible uses. Mr. Richard said it is incompatible and will bring negative impacts. Mr. Richard said he knows the standard of review of Superior Court and there will not be a judge in the State that would question a Board's decision that the application does not fit and judges are wary to invade the Board's discretion. Mr. Richard referenced a case *Casco vs. Tomasino* and said the easement issue is a civil matter that needs to be addressed.

John Webster of 59 Junction Road in South Berwick, also owns two properties in Berwick. Mr. Webster said the proposed building is 140' from the closest residence. Mr. Webster said the South Berwick Water District does not own the aquifer in Berwick and should not be able to place restrictions on the application. Mr. Webster said the Route 4 has an AADT of 10,000 cars. Mr. Webster said there are an excess of 100 trips per day on Pond Road and said an added two to three trips per day will not have an adverse effect on the neighborhood quiet. Mr. Webster said there have been marijuana grow facilities in Berwick for six years and there has not been one call to the Berwick Police Department. Mr. Webster said the plan has not been updated since 2004 and per state guidelines is out of date. Mr. Webster said a provision in the Comprehensive Plan that refers to town-wide adverse impact is referencing environmental impacts. Mr. Webster said he is not opposed to the application.

Tony Cincotta said his generation does not want to see Berwick as the epicenter of marijuana. Mr. Cincotta asked how a cultivation facility was approved next to a school and how one was approved Downtown.

Ben Gauthier said while marijuana is legal in the state, it is illegal federally.

- Site Plan Amendment & Expansion. Medical Marijuana Storefront & Adult Use Marijuana Production Facility. 357 Portland Street (R70 12-1 & 12-2). Paper Birch Property.

Alyson Graybill asked how Kind Farms can build another building that is within 1,000 feet of an existing building. Ms. Graybill asked what is controlling businesses from coming to Berwick and expanding on additional lots.

Old Business

- Site Plan Review. Adult Use Marijuana Cultivation Facility. 11 Pond Road (R70-16) RC/I Zone. CAF Realty of Maine.

The Planning Board and Town Attorney discussed going into executive session. Mr. Andreesen said his radio company does advertising for Kind Farms.

The Board went into executive session.

Dave Andreesen explained the media company he works for does advertising for Kind Farms. Mr. Andreesen said he will have to recuse himself and because of this, the Board no longer has a quorum.

Phil Saucier said in executive session the Board discussed the standard on an appearance of a conflict of interest but the substance of the issue was not held in session.

Motion: Nichole Fecteau motioned for Dave Andreesen to recuse himself.

Second: David-Ross Lyons

**VOTED – 3-0 in favor
Motion Passed**

In favor: Dave Andreesen; David Ross-Lyons; Nichole Fecteau

Opposed: None

Abstain: None

Phil Saucier said the question on Board desertion can be addressed at the next Planning Board meeting.

- Site Plan Amendment & Expansion. Medical Marijuana Storefront & Adult Use Marijuana Production Facility. 357 & 359 Portland Street (R70 12-1 & 12-2). Paper Birch Property.
- ~~Land Use Ordinance Amendments~~

Public Comment

Informational Items

James Bellissimo said Great Falls Construction is moving along well and that they have started emptying the Prime buildings and are considering demolition for at least two of the four buildings.

Adjournment

Motion: Nichole Fecteau motioned to adjourn.

Second: David-Ross Lyons

**VOTED – 3-0 in favor
Motion Passed**

In favor: Dave Andreesen; David Ross-Lyons; Nichole Fecteau

Opposed: None

Abstain: None

Minutes prepared by Berwick Planner James Bellissimo, for consideration at the next Berwick Planning Board meeting.

Signed as Approved by the Board:
