

## PLANNING BOARD MINUTES

August 12, 2020

### APPROVED: 9/19/20

AGENDA: SPECIAL USE PERMIT, NANCY MAXWELL, Hundred Acre Wood, #212-032  
ARTICLE X: PERSONAL WIRE SERVICE  
APPENDIX B: FLOOD PLAIN  
ARTICLE IV: MULTIPLE USES ON A LOT  
PCC: COFFILL  
PCC: CHEMLIN

ATTENDING: Denice DeStefano (Chairman), Jackie Elliott (Vice Chair), Don Milbrand (Sel. Rep.), Paul Barnett (Zoom phone), Betty Seeler

ABSENT: Bruce Beurivage (Alternate), Evan Hickey (Alternate)

OTHER: Christina Goodwin (Land Use Manager), Tyler Simonds (Planner), Applicants, public

Ms. DeStefano appointed Mr. Beurivage to sit in for Mr. Barnett.

The meeting opened at 7:00 pm with a quorum.

Ms. DeStefano stated that there is still an emergency order issued by the Governor that allows for meetings to be held both in-person and electronically, due to the pandemic. Members are attending in-person, via video and telephone conference and the meeting is open to the public both in-person, via the Zoom platform and regular phone access. The meeting continued by roll-call vote 5-0.

### **SPECIAL USE PERMIT: NANCY MAXWELL/MATT BARNARD, Map/Lot #212-032**

Mr. Simonds read the application, the list of abutters notified, where the hearing was advertised and stated there were no written comments or phone calls received. Ms. DeStefano stated that she visited the site with the Conservation Commission, and Matt & Bruce Barnard.

Matt Barnard explained that the property was subdivided in 2002. They wish to place the septic in the most acceptable location, as far from the wetlands as possible. The house is to be in the most accessible location, which is also in the setback from the wetlands. Mr. Barnard reported that the Conservation Commission is waiting for an answer from the Department of Environmental Services (DES) for their regulations of this location. He stated that the regulation for a house is for a setback from a prime wetland such as lake, etc. Ms. Goodwin pointed out that the Conservation Commission was concerned with the location and whether the fill for the site hadn't already been placed in the wetlands.

Mr. Barnett asked if that small area is a vernal or seasonal wetland. Mr. Barnard answered that it is not a vernal but appears to be a low-grade seasonal area. Mr. Barnett asked if it qualifies and was told that it hasn't been done by the Barnards. Ms. Elliott asked what they saw when they were there as it looks like a small section is in the wetland. Mr. Barnard assured her that it is not in the wetland but is in the setback from the wetland. Ms. DeStefano stated that her concern was the significant amount of fill that has been added to the location. At this point, Ms. Goodwin posted up various pictures of the area taken during the site visit.

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Ms. DeStefano addressed the Zoning Ordinance for Special Use Permits, 9.6 and 9.7, specifically pointing out Section 9.7 regarding the decision. Ms. Goodwin had reached out to the contractor about the fill added to the property, after the site visit and that information was shared with the Board. The Contractor reported that they do not intend to add any more fill. Mr. Barnard has walked the property and did see an intermittent stream (some underground and some on top) off to the left.

Ms. DeStefano asked for public comment, for or against. No members of the public spoke.

Ms. DeStefano read the Conservation Commission's recommended conditions into the record. Ms. DeStefano asked for questions or comments from the Board. Mr. Milbrand felt that they have demonstrated the best area and have a good system. Mr. Milbrand did state that he has a concern that there should be silt fencing in place. Ms. Maxwell stated that the fencing is up and runs along the left side. Ms. DeStefano felt it should also be added to the right side. Ms. Elliott and Mr. Barnett stated that they are all set.

D. Milbrand made a MOTION, second by E. Seeler, to grant the Special Use Permit with the following conditions: The Conservation Commission has taken into consideration that the Department of Environmental Services has approved a septic with new technology in relation to the elevation and poorly drained soils and understands that these technologies were not in existence when setbacks were created. Therefore, the Conservation Commission supports the septic as proposed within 125 feet of the wetland delineation; the Conservation Commission recommends no further construction activity in the wetlands or impact to the wetlands on either side of the proposed project. Any site construction should not impact the wetlands; Construction work must follow best management practices to protect wetlands; Applicant must inquire with the Department of Environment Services on whether or not a Wetlands Permit is required for the project; When construction is finalized, all landscaping and site work to complete the project, must follow best management practices to protect wetlands. And proof of whether a wetlands permit is required or not, must be supplied to the Town. The motion carried by roll-call vote 4-0-1 (Ms. Elliott was having trouble with her connection and was disconnected during this vote.) The 30-day appeal process was mentioned and the Barnards were thanked for attending with Ms. Maxwell.

### **PCC: CHEMLIN**

Ms. DeStefano read the requirements regarding a PCC. Mr. Chemlin reported that there is no proposed project currently and they would like to continue to use the property for family and friends as well as parking for events. Ms. DeStefano inquired on the current Site Plan. Mr. Simonds reported that there is not a current Site Plan on file. Ms. Goodwin reported that the property was used in the past as commercial, but the Site Plan has since expired. The use was close to 10-years old. Mr. Milbrand inquired on the district. Mr. Simonds reported the property is in the Lake District and the entire property is in the well-head protection area. The map was reviewed. Ms. Elliott joined again by phone. Ms. DeStefano explained that the Board needed to review any plans and determine the Site Plan requirements. In addition, a Variance would be required, if the use is no longer allowed in the Lake District.

Ms. DeStefano reported that she has viewed several tree company vehicles on the property and inquired what the vehicles are doing there. Mr. Chemlin pays the company to do work and to provide security to the property as they have had a lot of vandalism in the past. Mr. Milbrand inquired if lumbering was part of agriculture. Mr. Chemlin reports they have provided wood chips, cut the lawn and provide security but minor brush clearing. Mr. Milbrand stated the trucks are parked there and the logs are staged on the property. Mr. Chemlin confirmed. Ms. DeStefano reminded Mr. Chemlin that whatever they wanted to

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do on the lot will need to have a Site Plan. She recommended that they come in early and have another Preliminary Conceptual Consultation (PCC). Ms. DeStefano also reminded Mr. Chemlin that there can only be one (1) primary use and one (1) primary structure. Mr. Chemlin inquired on this. Mr. Milbrand explained that you can't have three (3) different businesses. Ms. Goodwin inquired if the property is being used for camping. Mr. Chemlin stated that the property is not being used for financial camping, but it is used for friends and family. Ms. Goodwin reviewed the state rules and the Town's Zoning rules, regarding camping.

Mr. Chemlin inquired about the use of the property for a charitable use, such as parking etc. or to offer space for people to stay during the marathon or store their boats during the fishing derby. Ms. DeStefano stated that Board would need to look at the list of permitted uses and determine how the use of the property falls under that list. Mr. Chemlin inquired on how often the Board meets. Ms. DeStefano reported that the Board meets twice a month, but Mr. Chemlin should contact the Land Use Office regarding attending a meeting.

Mr. Chemlin inquired about installing a sign with the address. Ms. Goodwin inquired on the size of the sign. He stated he was thinking a 4X4 plywood with currently the sign would only display the address. Mr. Simonds inquired on the primary use of the lot. Mr. Chemlin stated that it is for family and friends to get together and have fun and that no one is currently living in the house. Ms. DeStefano reviewed the sign ordinance section of Zoning and the current size and information on the sign does not require a permit, but if it changes Mr. Chemlin would need to check with the Land Use Office.

Mr. Chemlin inquired on gardening. No restrictions if it wasn't commercial. Mr. Chemlin inquired about archery, knife throwing, etc. Mr. Simonds pointed out that it may fall under recreational facility. Ms. DeStefano reminded that the reason for the Site Plan was to review the project but to also notify the abutters to allow for their input.

Ms. DeStefano pointed out that a free-standing sign needs to be setback 5ft from the lot line. Mr. Chemlin will verify the location before installing.

### **PCC: COFFILL**

Ms. DeStefano read the requirements regarding a PCC. Ms. Goodwin reported that there have been a lot of different projects proposed for the property. Mr. Coffill has talked about boat storage, and other storage in the barn and the outbuilding. Ms. DeStefano inquired on where the outbuilding is in relation to the main building itself. Ms. Goodwin showed the two (2) unit home, which also has a home occupation, the dental lab and then an outbuilding. The building set up was reviewed. Ms. Goodwin reported that the maps are not correct as there was an involuntary merger that still need to be fixed. Ms. DeStefano inquired on the district. The property is split but the front of the property is Village Commercial.

Mr. Coffill reported he would like to do outside winter boat storage on his property located behind the neighbor's home. There is a clearing located in the Village Commercial District. Ms. DeStefano pointed out that boat storage in Village Commercial is not allowed. Mr. Milbrand inquired about retail storage. Ms. DeStefano inquired on Commercial Enterprises. The definitions were reviewed by the Board and they agreed that the use is boat storage and the property would need to have a Variance.

Mr. Coffill discussed the outbuilding and garage area that would be used as commercial self-storage. Storage Area and Warehouse, Self-Service definitions were reviewed. It was determined that Warehouse,

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Self-Service was the appropriate definition and it is allowed in Village Commercial and Corridor Commercial. This would require a Site Plan.

Mr. Coffill stated that eventually he would like to add a music venue, indoor and outdoor. They are thinking that they would like to give performers a place to get together to host events. Ms. DeStefano felt that it would fit under Amusement and it is a permitted use in the district. This would require a Site Plan.

Mr. Barnett was disconnected from the meeting at this time.

Mr. Coffill is also interested in an outdoor concert series. Ms. Goodwin mentioned the parking might be an issue. Ms. DeStefano reviewed some of the items that are addressed during a Site Plan. Mr. Coffill stated they wanted to do it as a family event. The outdoor music could have conditions of approval added that pertain to lighting or hours, etc. The State's right-of-way was reviewed for the property as well.

Ms. Goodwin advised that he should do any Variances first and then the Site Plan. She added that Variances should be separate applications in case any of them get denied. And that Mr. Coffill can make an appointment with the Land Use Office to go over an application. Mr. Coffill was thanked for coming in.

### **PUBLIC HEARING ON ZONING AMENDMENTS**

Mr. Simonds received several phone calls but only asking why the property owners were getting a letter on the Corridor Commercial District.

#### *APPENDIX B, FLOOD PLAIN*

The only comment received back from the Town Attorney was that in Section 16.6, we cannot deny an application for being incomplete but can hold back the permit until everything is provided.

Mr. Simonds presented the Ordinance and proposed changes. Ms. Seeler commented on the acronyms in the ordinance as she felt they should be spelled out. The Board overall felt that using acronyms is the norm.

D. DeStefano made a MOTION, second by D. Milbrand, to approve the amendments to the Flood Plain Ordinance to the March ballot. The motion carried by roll-call vote 4-0.

#### *ARTICLE X, PERSONAL WIRELESS SERVICE FACILITIES*

This was Mr. Barnett's suggestion. Ms. DeStefano reported on the background for the change, in order to, encompass the changes to the language and allow for options on bonding versus letter of credit, where the past Ordinance didn't.

D. Milbrand made a MOTION, second by J. Elliott, to approve the amendment to the Personal Wireless Service Facilities to the March ballot. The motion carried by roll-call vote 4-0.

#### *ARTICLE IV, MULTIPLE USES ON A LOT*

Due to the size of the Zoning District, all property owners in the district were notified of this change. The Land Use Manager will submit to Town counsel after this meeting for a final review. Mr. Simonds presented that update, which was done to clearly define multiple uses and to add Corridor Commercial to the district that this section doesn't apply to. The change was to take into consideration, the Mixed-Use Development.

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D. DeStefano made a MOTION, second by D. Milbrand, to approve the amendment to the Multiple Uses on a Lot definition after the Attorney review to the March ballot, provided there are no substantial changes that come back from counsel. The motion carried by roll-call vote 4-0.

### **MINUTES OF JUNE 24, 2020:**

The minutes of June 24, 2020 were reviewed. D. Milbrand made a motion, second by E. Seeler, to approve the minutes as written. The motion carried by roll-call vote 4-0.

### **MINUTES OF JULY 8, 2020:**

The minutes of July 8, 2020 were reviewed and amended. E. Seeler made a motion, second by D. Milbrand, to approve the minutes as amended. The motion carried by roll-call vote 4-0.

### **COMMUNICATIONS:**

A survey was submitted for the Plankey / Carlson property on Hemphill Road.

### **REPORTS:**

Historic District Commission (HDC) - They met and approved a Certificate of Approval (COA) for Mr. Hertrich for the building located next door to the Town Offices. Mr. Hertrich is approved to put on grey vinyl siding with white trim and black shutters with the stipulation that he maintain as much as possible, the historic character of the property. The HDC is also looking to replace the district boundary signs next year. The Commission won't meet again until October.

Select Board – Mr. Milbrand reported that their meeting has been moved by a week.

Capital Improvements Program (CIP) Committee – They meet next week.

Land Use Office – Ms. Goodwin, Ms. DeStefano and Mr. Simonds are meeting tomorrow to review some needed amendments to the Sexually Oriented Businesses section of the Zoning Ordinance. They will also be submitting some changes to the Sign Ordinance and the Mixed-Use Ordinance will be coming soon.

Mr. Simonds reported that there some possible subdivisions coming before the Board. The Nashawaty's wish to subdivide their lot on Pleasant St. There is a beach lot on West Shore Road that also wishes to subdivide. A discussion centered around if the lot was buildable or if a beach lot has different rules. The Board agreed that it can't become more non-conforming. It must be cut and dried or variances would be needed. Access and parking would be issues as well as sanitation. Ms. Goodwin pointed out what is shown as being in the State right-of-way. The Board agreed that the frontage is going to be an issue as well.

The Board discussed the proposed subdivision on Hemp Hill Road. The subdivision has not been submitted yet. There are three (3) driveways, one (1) of which has been addressed by Land Use with a request to eliminate it.

The Mayhew abutters issue still needs to be resolved. Ms. Goodwin proposed to investigate what DES shows for abutters and use that toward the Board's determination.

Bleiler's amended Site Plan can be moved to the workshop meeting.

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82 Brown's Beach Road is 10' into the 50' setback from the Lake. The building is 21' high in the front and 28' in the back. The owner would like to make the roof even at the 28' height. They may need the Special Exception for the height change and will need a Special Use Permit for the wetland setback.

Pawn Shop: We are asking that he come in for a PCC so the Board can help make him understand that he can't keep adding more businesses. As it is, he uses up all the parking spaces with business vehicles.

Land Use is dealing with 20 junky/junkyard violations right now.

Temporary outside seating has been extended to Columbus Day.

### **OTHER:**

Ms. Seeler has a problem with her tenant who wants an extension for moving the vehicles. She told him no, but would like to present a proposal to the Board to make an amendment to her current Site Plan. As the front of the two (2) buildings are not parallel, she is asking that parking be allowed in the front of the second building that is more set back from the road. The bollards and chains have been installed. Ms. DeStefano stated that her issue is that they are yet to come into compliance and now want to go back to what it was or make changes. She feels that the property needs to come into compliance before any changes can be made to the Site Plan. The rest of the Board agreed.

**NEXT MEETING:** The next meeting is scheduled for August 26, 2020, at 7:00pm, and is a workshop meeting.

With no other business before the Board, Ms. Elliott motioned to adjourn at 9:54 pm, Mr. Milbrand second. The motion carried.

Respectfully submitted,  
Jan Laferriere  
Land Use Administrative Assistant