

NORTH HAVEN PLANNING BOARD
MEETING MINUTES
NOVEMBER 14, 2018
TOWN OFFICE 5:00 PM

Present: Pat Curtis, Jeff Crawford, Jamien Shields, Tammy Brown (associate CEO), and Paul Quinn (CEO).

Absent: Emily Greenlaw.

1. Call to Order: at 5:11 p.m.

Recognized Doug Record for his service to the Planning Board and to the community. We will miss him.

2. Approve Minutes of July 11, 2018, September 12, 2018, and October 10, 2018:

July 11: Moved by Jamien and seconded by Pat, approved 2 - 0 - 1 (JC)

September 12: Moved by Jamien seconded by Pat, approved 3 - 0

October 10: Moved by Pat seconded by Jeff approved 2 - 0 - 1 (JS)

We discussed whether or not, according to Robert's Rules of Order, Board members can vote to approve meeting minutes for meetings that they did not attend. Tammy will share research.

3. CEO Report:

New Permits Issued:

24-18 Worsley Pulpit Harbor Trust

Map 19 Lot 28A, Shoreland District

RE: Wharf, goes with the new house

25-18 Eugene & Maryella Gove

Map 19 Lot 05, Shoreland District

RE: Extension of the expiring Permit for Twine Shop

26-18 North Haven Community School

Map 19 Lot 18, Village District

RE: Pole Barn – Minke Whale Project

27-18 John Macomber

Map 17 Lot 03A, Rural District

RE: Moving Shed

28-18 John Macomber

Map 17 Lot 03A, Rural District

RE: Greenhouse

29-18 Thomas Maier

Map 23 Lot 24A, Shoreland District

RE: Pool, Pavilion and Step Repair

Denied Permits:

None at this time

Other Items:

Email chain from David Webb and Ed Hayes regarding the weddings at the neighbors was shared with Tammy. They need to file a formal complaint with the CEO. Tammy will contact Ed Hayes. Once the complaint is received, the CEO will determine the next steps.

Potential Projects:

Cecily Pingree-Calderwood Hall - Cecily has asked if she could enclose the car port on her property to be used as storage for the business located on her property. She would then relocate the driveway to the parking area to the north side of the building, along her property line. The portable storage sheds will be removed from their current location.

Turner Farm dock design was submitted. There is a question regarding the intended use.

Abel Labelle Mullins Lane Property - The tent has not been removed. The CEO will follow up with the property owner.

4. Review Attorney Paul Gibbons' opinion regarding actions required by Southern Harbor Eldercare Services (SHES) and the Planning Board: Land Use Questions

A letter from Paul Gibbons (included), stating his opinion on the land transfer, was received by Tammy. When SHES acquires the land, they need to submit a new application. Pat will contact Kathi to notify SHES that we received the letter from Paul Gibbons.

This is the history of the Land Use Question:

In July of 2017, the Planning Board approved an application, with conditions, for the renovation of the garage into an apartment. The conditions, as established at a special Planning Board meeting following a Public Hearing on July 26, 2017, are as stated:

Moved by Jamien and seconded by Becky to approve the conditional use application for the renovation of an existing garage to an apartment with the condition that the apartment should be used as living space for SHES employees or other staff only. Approved 3-0 with 1 abstention

SHES would like to have the condition rescinded and are working with North Haven Conservation Partners (NHCP) to transfer land to SHES so their lot is a suitable size for two dwellings. Currently, there is a total of 8.21 acres (3 with SHES and 5.21 with NHCP). If the transfer of land takes place, the Planning Board will need to see the new deed transferring the land from NHCP to SHES. Tammy will seek the opinion of the Town attorney as to whether or not this land transfer will allow the conditions to be rescinded.

5. Other Business:

a) Employ a proofreader/editor for the Subdivision Amendment Draft - Laura Serino has consented to do the work and can begin after Thanksgiving. Moved by Jamien to hire Laura to edit at \$40/hr with an estimate of 4 - 6 hours, seconded by Jeff, approved 2 - 0 - 1 (PC)

b) Newspaper notification question - Paul Gibbons stated that after we receive an application for a Subdivision, we need to publish a notice of the date, time and place of the public hearing in a newspaper of general circulation in the Town at least two times. This is cited in the Subdivision Ordinance in Article 6.1G, and 7.1J.

c) There were questions about the location of wetlands and the clearing on the Parkerton property near the Transfer Station. A wetland map should be consulted.

6. Land Use Workshop date: Wednesday, December 5 at 4:00 p.m.

7. Reminder - Next regular meeting, Wednesday, December 12, 2018 at 5:00 p.m:

8. Adjourn: Moved by Jeff and seconded by Jamien to adjourn at 6:42, approved 3-0.

Respectfully submitted: Jeff Crawford



The Law Offices *of*
PAUL L. GIBBONS, LLC

9 Washington Street, Camden, ME 04843 | PH: (207) 236-3325 | FX: (207) 236-8611

www.attorneygibbons.com

ATTORNEYS
Paul L. Gibbons

LEGAL ASSISTANTS
Donna M. Lewis

Memorandum

To: **Tammy Brown and the North Haven Planning Board**

From: **Paul Gibbons**

Date: November 5, 2018

Re: Eldercare Facility

Facts

At present there is an eldercare facility located on 3 acres of land within the shoreland zone which property is depicted on Town of North Haven Tax Map 19 Lot 03. The eldercare facility also has a garage next to its main building. In recent past, the eldercare facility requested to use the garage as an apartment.

Under the Town of North Haven Land Use Ordinance in the Shoreland District there is a minimum lot size requirement of 3 acres, and under the State of Maine Guidelines for Shoreland Zoning the minimum lot size requirement is also 3 acres.

The Eldercare facility is a use permitted as a Conditional Use under the North Haven Zoning Ordinance (see Section 3.5 C) of the Land Use Ordinance. An Eldercare facility is not the type of commercial use prohibited under the State of Maine Guidelines.

I advised the North Haven Planning Board that they had to deny the request by the Eldercare Facility for a residential apartment in the garage because this

would mean the facility would then have two uses: an eldercare facility and a single-family dwelling each of which requires 3 acres of land under the standards of the shoreland zone. Since there is only 3 acres of land and 6 acres would be required for both uses, the Planning Board had to deny this request.

If the garage apartment was restricted to a place to stay for employees of the Eldercare Facility, then the use would remain commercial, meaning to say there would still be a single use of this land ie an Eldercare facility, a commercial use.

Now, the Eldercare Facility is receiving neighboring land that contains about 5.1 acres of land. This additional land contains no uses requiring minimum lot size requirements. I understand that the only use of this land is a conservation easement.

Even though the Eldercare Facility would likely violate the conservation easement if they built on the 5.2 acre lot, this lot can be combined with the 3 acre lot for the purposes of increasing the lot size of the land to 8.2 acres so as to allow the garage now to have a residential apartment in it. With the addition of the residential apartment in the garage along with the commercial use as an Eldercare Facility, the minimum lot size requirement increases to 6 acres and since there is 8.2 acres available, the minimum lots size requirements of the Shoreland Zone have been met.

I make no representations as to what this arrangement may have on the open space classification treatment likely being received by the property owner of the 5.2 acres incumbered by the conservation easement.

I have not read the provisions of this Conservation Easement to determine if using the land area of the Conservation Easement to increase the zoning density of the abutting property violates the Conservation Easement provisions. It is unlikely that owners of a conservation easement would allow a violation of its own conservation easement.

The Eldercare Facility needs to apply for a new permit for the residence in the garage. The application must include both parcels. The tax map can continue to show these as two separate lots or a single lot.