



Meeting Minutes
Brownfield Planning Board
82 Main Street
Brownfield, Maine 04010
207-935-2007 ext. 201

Date: February 7, 2023

Time: 7:00 P.M.

Location: Town Office Conference Room

Attendees:

Sonia Frye-Chair	X	Carrie Garland	X
Kurt Wood Vice Chair	X	Judi Tordo*	X
Doug Heroux	X	Mitch Dondero *	X
Joe Egan	X		

***Alternates**

Others present: Richard Perreault (Fire Chief), Jordan Pike (HEB representing BCDP), Pam Thomas (Secretary), Whit Lucy, Dana Forcier, Hailey Boudrea and Attorney Jeffrey Wilson (Attorney for Clean Green, LLC) and Adam Martinese.

Attending via Zoom: Attorney Durward Parkinson. (Planning Board Attorney.

Agenda items:

- A. A quorum was determined and the meeting was called to order at 7:00P.M.
- B. A motion was made by Joe and seconded by Kurt to approve the minutes of January 3. The vote was called and carried 4-0-1. Carrie was absent and abstained from the vote.
- C. Kurt made a motion that was seconded by Joe to move application items on the agenda and were reviewed after item G. The vote was called and carried 5-0-0.

- D. The workshop notes of January 10 were submitted and signed by the chair.
- E. Kurt made a motion that was seconded by Joe to accept the changes made to the Commercial and Industrial Application. The vote was called and carried 5-0-0.
- F. An email from Mike Morse was read to all present. Members requested information from Mike about the new Septic Rules. The part that does apply to the Planning Board in part follows:

There are two provisions in the town's shoreland zoning ordinance that quickly come to mind (there might be others) - take a look at Section 12(C) (3) and Section 16(D) (3). Both of these provisions require the PB to ensure that wastewater will be sufficiently addressed.

In practice, the Board can simply require an applicant to demonstrate that an approved system is already installed or else is proposed to be installed. An applicant can submit evidence of an HHE-200 (septic system application) for either the existing or an approved new/replacement system and that should suffice for the Board. The Board should not review the system for compliance with the septic rules unless they are trained and certified to function as the Local Plumbing Inspector, which is highly doubtful. The ordinance clearly assigns that authority to the LPI.

The email in its entirety can be found in the file marked "Septic Rules".

The proposed Planning Board fees for the Marijuana Establishment Fee Application Schedule was reviewed. Kurt made a motion that was seconded by Joe to submit the proposed fees to the Selectmen. In addition to the new initial proposed fees the Board has added proposed Renewal Fees. The vote was called and carried 5-0-0. When the fees have been accepted by the Selectmen and a signed copy of the fees have been submitted, these fees will be posted on the Planning Board website.

G. The Planning Boards proposed budget submitted to the Budget Committee for review on January 30th. The proposed budget had to be voted on at a regularly scheduled meeting, Kurt made a motion to approve the proposed budget, and Joe seconded the motion. The vote was called and carried 5-0-0. The proposed budget was signed by the chair.

H. Brownfield Community Development Project

Jordan Pike of HEB Engineers and Dana Forcier were present to submit the information requested by members at their meeting on January 3 for the proposed subdivision project.

Sonia Frye recused herself from voting on the application, Sonia is an abutter to the proposed subdivision and stated that she will submit a letter of recusal. The Vice Chair replaced Sonia to review the application for B.C.D.P. (Brownfield Community Development Project).

Carrie Garland submitted a letter of recusal to the board dated 2/7/23, Carrie is the mother of the applicant.

Durward stated that members who recuse themselves should step away from the Planning Board table saying that there is no need for a member that recuses themselves to submit a letter and going forward, make sure that the recusal stated, is in the minutes.

Kurt (Vice Chair) appointed Planning Board alternate Judi Tordo to replace Sonia for the review of this application tonight.

Joe asked Jordan Pike to clarify Subdivision requirement 7.2D-23, the applicant is requesting a waiver on this requirement which reads as following the requirement:

- A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experience in hydrogeology when
 - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers", by the Maine Geological Survey, 1987, Map No. 13; or
 - b. The subdivision has an average density of more than one dwelling per 100,000 square feet.

Joe stated that this proposed development is over an aquifer and he has concerns that if a.or b. (above) conditions exist within the development, this could be another situation where we could have problems. The map was not submitted.

Waiver request

7.2 D-23. A hydrogeologic assessment was not prepared for this preliminary submission. No development or structures are proposed on these lots at this time. The proposed lot subdivision does not trigger Site Law as defined by the Maine Legislature, and the proposed lot subdivision will not adversely impact the environment. The performance standards of these regulations

and criteria of the Subdivision Statute will be evaluated in the future when a dwelling structure or other development requiring a hydrogeologic assessment is proposed on any of the lots within the parcel.

Joe stated that this proposed development is over an aquifer and has concerns.

Durward Parkinson, the attorney for the Planning Board stated that part of the parcel is over an aquifer but it doesn't violate health and safety, and asked if the waiver request is due to the expense involved.

Kurt stated that there is no development at this time.

Durward stated that when there is future development on one of the lots, the Board could then require a geological report or if there is a substantial commercial project, the Board could request a study. Joe asked the question that if one lot is sold and the owner wants to put a house on it, will that create a problem, will the new owner be required to have the survey done?

Joe expressed concerns that if the Board grants waivers, they can get lost in the mix adding that all of the waivers should be listed on the drawings so that (anyone buying a Parcel) would know.

Jordan stated that it is not customary to put all waivers on the plans.

Durward suggested that all of the waivers granted should be written in the Findings of Fact and be placed in the first part of the Findings so that anyone buying (property) would know that waivers have been granted or have it required in the Deeds.

Joe made a motion that was seconded by Kurt that all waivers will be listed on the plan. The vote was called and carried 4-0-0.

The applicant has sold one of his lots within the past five years. The question was asked if the lot is part of the subdivision.

Durward stated that you can consider the lot as far as drainage, traffic, wildlife but it does not need to be a part of the subdivision.

Joe stated that these are in the Town of Brownfield Subdivision Regulations. Attorney Parkinson stated that the Regulations in Brownfield mirror the states regulations and the Board can consider that lot.

Richard Perreault, (Fire Chief) told the applicant that if there are three (3) or more lots, a 10,000 underground gallon water tank is required and they will need to be signed off adding that fire safety should be very important.

Durward stated that the applicant has triggered the requirement for tanks and the Board can consider the fifth lot.

Jordan stated that these are design guidelines. (Subdivision Regulations).

The Fire Chief went on to explain that when someone comes in requesting a permit the tanks need to be installed before a permit can be issued. That's a requirement and a safety issue.

Hailey asked, what if you're not building on a lot.

Chief Perreault replied that it needs to be on the plan, where the tank(s) is/are going. This is a proposal right now, when they start selling lots, the tank(s) will need to be in.

Dana stated that on other applications, preexisting firefighting supplies have been used.

Kurt told the applicant this is in the Performance Standards and this is the Fire Chiefs call.

Doug added that the 10,000 gallon tank is a minimum requirement.

The Fire Chief cautioned that if the applicant subdivides the property into more lots, more tanks may be required.

Jordan stated that it wasn't made clear to put on the plan. Durward added that the way it is worded gets the point across. Good practice, you cannot modify a subdivision plan without coming to the Planning Board. Where the tank is located is required.

Kurt then asked Jordan to include the placement of the tank on the plan.

Judi asked if there is a four (4) lot subdivision and one (1) lot is sold, does that tank need to be there at the expense of the lot owner and asked how that is fair.

Mitch suggested that when one lot is sold, the tank is installed. Judi again asked whose responsibility is it, the new owner or Dana.

Joe read from an email dated January 10th to members after a phone conversation with Attorney Durward Parkinson and read the following that applies to Subdivisions.

- 1) A conditional note should be placed on the drawing requiring any commercial uses or development on any of the lots be presented to the PB

for its review. Residential development can be handled by the Town's CEO unless he determines that Planning Board approval is required.

- 2) A conditional note should be placed on the drawing stating that the lots included in this subdivision cannot be further subdivided unless another separate application is submitted to the Planning Board for their review and approval.
- 3) The requirement for underground firefighting water storage tanks must be investigated further. If a tank is required, the applicant's engineer should show the proposed location on the plan.

Durward stated that it could be part of the buy/sell agreement. It doesn't have to be installed but the location of the tank should be shown. Notice should be given that the tank needs to be put in. Typically, a commercial developer would install the tank rather than the lot owner. There would also need to be an easement to the common lot where the tank is located.

Doug asked the fire chief to choose a location for the tank.

Joe added that if the developer sells lot #1 and has an agreement with the buyer, the buyer would then be responsible to put in the tank.

Requirement 7.2D12 The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If the proposed subdivision is in the direct watershed of a great pond, the application shall indicate which great pond.

Reply: Included: Rivers, streams, and brooks were not identified within the subject parcel. The proposed subdivision is shown within the larger watershed of Moose Pond- Saco River. Please see Watershed Map in Attachment C.

Requirement D12- Joe made a motion to accept attachment C and C1 as adequate. Kurt seconded the motion, the vote was called and carried 3-1-0. Judi commented that she cannot read the plan. It's not clear. (Watershed Map).

Requirement 7.2.D16 The location, names, and present widths of existing streets and highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.

Reply: Included, please see the subdivision plan.

Kurt stated that the roads have been placed on the maps, Rt. 160, Rye, and Pig St. Doug stated that all the widths of the roads are there.

Joe made a motion that was seconded by Kurt that requirement D16 does meet the standards. The vote was called and carried 4-0-0.

Requirement 7D2-26 Joe stated that on attachment D, the roads are not shown.

Requirement 7.2 D-26 : Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the Comprehensive Plan. If any portion of the subdivision is located within an area designate as a critical natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

Reply: Included, areas of high moderate value wildlife habitat were not identified. Please see the Maine Department of Inland Fisheries & Wildlife Map in Attachment D.

Joe stated that the Board wants a full sized plan for Requirement 7.2D -26 that is readable for the files.

Sonia will take the place of Judi for the review of the next application.

Clean Green, LLC- Tax Map

Adam Martinez is present with his attorney, Jeffrey Wilson. The applicant received a permit for an Adult Use License dated January 3, 2022.

Sonia asked if anything has changed within the application besides the Liability Insurance that has been submitted and updated.

Adam replied no. They have a conditional license with the State and are only waiting for an Occupancy Permit.

An email from the CEO, (attached) revealed that the applicant has not complied with requirements to pass the inspection and he has denied an Occupancy Permit for the business. Members stated that they have nothing to do in line with the state inspections by OMP. (Office of Cannabis Policy).

Attorney Jeffery Wilson explained to the Board that Adam cannot conduct business (Adult Use) without State licensing and he cannot get his license without an Occupancy Permit.

Mitch stated that the Fee must be paid before the permit is granted. (The fees were not paid on the initial permit in a timely matter). Sonia stated that she will be meeting with the Selectmen next week to discuss fees. The Board will issue a conditional approval when the renewal fees are paid and the conditions must be met with Mike Vane for an Occupancy Permit. (CEO).

Kurt made a motion to accept the renewal application as meeting the standards and will not be in effect until the fee is paid after the Selectmen have set the fees. Carrie seconded the motion. The vote was called and carried 5-0-0.

Kurt made a motion that was seconded by Carrie to hold the next workshop on February 21st and the next meeting on March 7. The vote was called and carried 5-0-0.

An invoice stamped received on January 19th and dated 12/31 /22 was submitted from Bergen Parkinson, LLC in the amount of \$60.00. Kurt made a motion that was seconded by Carrie to approve payment. The vote was called and carried 5-0-0.

An invoice dated January 4th and received on January 9 submitted by MMA for Joe, Carrie and Pam to attend via zoom the MMA Legislative Process A-Z webinar in the amount of \$120.00 was submitted to the Board. Kurt made a motion that was seconded by Carrie to approve the payment. The vote was called and carried 5-0-0.

LD 2003 was discussed. Joe mentioned that LD 2003 has passed and the Planning Board will have to adjust the LUO (Land Use Ordinance) by July 2023.

The state is taking away Home Rule. MMA is trying to amend some of the requirements.

Members will review By-laws at the next workshop on February 21 and discuss suitable septic and water systems.


Kurt made a motion that was seconded by Carrie to adjourn the meeting. The meeting adjourned at 9:00.

Submitted by,

Chair,


Pam Thomas

Sonia Frye


Vice Chair