



PLANNING BOARD
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MINUTES OF THE PLANNING BOARD

Thursday, June 15, 2023 – 6:30 p.m. – Town Hall Conference Room

Members Present: John McDevitt, David Moore, Stephan Toth, Richard Winsor (Alternate)
Late Arrival: Bob Dion, Steve Smith (Selectmen’s Rep)
Members Absent: Steve Gerrato, Catie Medeiros, Phil Dion (Alternate), Stu Gerome (Alternate)
Staff Present: Mark Fougere

J. McDevitt opened the Planning Board public hearing at 6:30 pm. He announced a quorum was present and the meeting was being recorded.

1. Projects of Regional Impact

There were no projects of regional impact.

2. **Preliminary Conceptual Consultation**

150 Bayside Road (R17, 21: Residential)

Applicant: Endres Brothers, LLC dba Bird Dog Cider Co.

Owners: Peter Endres, Claudia Bartolini

The owners and applicant propose to grow apples and/or other fruits for retail and pick-your-own sales and agritourism as well as the onsite production and sales of hard cider with a tasting room.

B. Dion joined the meeting.

Peter Endres and Claudia Bartolini, owners, were present. P. Endres addressed the Board and gave a brief background on the property. They purchased the property with the intent of having an agricultural business on site, specifically including a pick-your-own apple orchard, and the production and sale of hard apple cider. During the last two years, they have focused on building up the farm: 900 trees have been planted on the property (3/4 of an acre); 1,100 trees are on order to be planted over the next several years. They have been renovating the old dairy barn for two purposes: it houses a production facility for cider and a tasting room.

The name of the business is Bird Dog Farm and Cidery. They are licensed with the NH Liquor Commission and Federal Alcohol, Tobacco Tax and Trade Bureau for the cidery. In 2021, the Board approved Bird Dog Cidery as a Cottage Industry, allowing them to produce cider on site as well as a very limited public tasting room. They were before the Board at this meeting to discuss phase two of their plan: pick-your-own apples and the tasting room.

An aerial plan of the property was shown. P. Endres pointed out the long driveway to their residence and noted the location of the barn and orchard. Public parking areas were outlined on the plan. P.

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Endres pointed out the main entrance to the barn/tasting room. Retail space and a utility room are planned. Cider is produced in the back half of the building and is separated from the public area. A restroom will be available and there is the potential for a second. There is a patio; seating is available on the lawn. P. Endres discussed parking plans: crushed stone will be used in the parking lot.

P. Endres commented that this type of business is seasonal. They anticipate fall to be the busiest time. There would be daytime hours for the pick-your-own portion of the business during the week and on weekends, possibly 10:00 am to 5:00 pm. The tasting room may also be seasonal. There will be more focus on the warmer months of the year. It is anticipated that the tasting room will be open four to five days a week, mid-afternoon to 8:00 pm or earlier.

S. Smith arrived.

J. McDevitt questioned the capacity of the parking lots. P. Endres replied that there would be a total capacity of approximately 50 to 80 cars. S. Toth stated he was in full support of more agricultural apple farms/pick-your-own in Town. His concern was increased traffic on Bayside Road; it was a residential area, and he did not want to see it become a busy thorough way. He was also concerned that people may park on the road. Signage for 'no parking' may be an option. P. Endres replied that they live on the property, and they want to preserve the good relationship they have with their neighbors. One advantage is their long driveway which allow parking and help people get off Bayside Road. The plan would be to have exiting traffic yield to incoming traffic; signage would be put up. If he gets to capacity, they will go to a reservation-type system. He does not want a bad customer experience.

S. Toth was also concerned about the septic system. P. Endres explained that there is an existing septic located behind the barn. He has had it inspected and it is in good shape; the piping and tank are fine. The advice from the professional inspecting the septic system was that it could be utilized. The capacity was approximately 1,000 gallons. P. Endres plans to pump the tank proactively once a year to make sure there were no issues. P. Endres also plans to have portable restrooms on site.

S. Toth questioned the ditch at the end of the driveway that is filled with water in the spring. He did not want the water to go over the road. P. Endres replaced the culvert at the end of the driveway that was crushed; it is functioning and works.

R. Winsor: Noted that the septic would have to match the usage of the building. Traffic flow would have to be worked through. He expected two-way traffic rather than queuing on one end and should be addressed with a formal plan. Fire safety would be critical in that location. A lighting plan should be included.

P. Endres was confident that, subject to engineering, the restroom would be functional. There is the possibility of two restrooms. He asked the Board if a port-a-potty would work. R. Winsor stated he would have to see how the math worked out. He was almost less concerned with the restrooms than the cider production. There was a lot of water created with cider production; where did the water go; it could not be dumped into the ground. P. Endres responded cider production was unlike brewing: it was not water intensive. The only water usage, and it would be minimal in cider production, would be cleaning tanks. R. Winsor noted there was a substantial amount of wash down water and questioned where it would go.

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S. Toth: Referred to the law that stated if there was a restaurant with seating inside, there must be an interior facing restroom. The proposed restroom would not work, and he was unsure of the port-a-potties. P. Endres stated there would be snacks and nibbles but no prepared food.

R. Winsor stated that they needed to meet code. He recommended that they hire an engineer. P. Endres mentioned that waivers will be submitted. D. Moore stated they would need a lighting plan and parking plan. There was a discussion about the need for a lighting plan. J. McDevitt suggested that in addition to a parking plan, a drainage study be done. J. McDevitt agreed they would need an engineer. R. Winsor stated they would also need to speak to the Fire Chief and Chief of Police.

B. Dion opened the hearing to public comments. Deborah Beck, Bayside Road, Patrick Karr, Bayside Road, voiced concerns. P. Karr stated that traffic would increase on that road. The road could not handle that amount of traffic. P. Endres did not want those issues; he lived there also. He was trying to run a business and needed customers to make the business successful. They can do something about public safety. P. Karr questioned the number of trucks going back and forth with deliveries. P. Endres did not anticipate a lot of truck traffic. There is very little freight delivered to the site. He takes care of most of the farm supplies himself locally. P. Karr asked if it was zoned for commercial. M. Fougere stated it was not a commercial use; it was an agricultural use, which is allowed by right in the Zoning Ordinance passed by residents many years ago. New Hampshire is a very pro-agricultural state. The statutes surrounding agricultural uses are very pro agriculture. The Planning Board has the right to ask for a review of this type of use and the reason P. Endres is before the Board. P. Karr pointed out that this use was for-profit. J. McDevitt pointed out that there were other for-profit agricultural uses in Town in residential areas. R. Winsor explained that the residents were not being put at risk. The residents approve zoning, not the Planning Board. Agriculture is a protected use statewide. The proposed use fits well within the zoning; he was unaware of anything that would preclude them from moving forward. R. Winsor explained the approval process. J. McDevitt added that the applicant may be required to provide a traffic analysis.

D. Beck stated that the Board did not have the authority to grant approval. Under State statute they can produce 35% of what they sell. P. Endres, responding to D. Beck, stated that his current planting would produce more than 100% of the cider he made this year. She noted this was a commercial activity in a residential zone. The discussion regarding use continued.

P. Endres discussed the 35% threshold for products sold on the farm that come from farm materials. His understanding of the statute is that it allows, by right, a roadside farmstand. That is not what was being proposed. Under agricultural use, it was very clear that growing fruit and cultivating crops is clearly agriculture. It is also agriculture when product is taken from the farm and made into another product. That product can be sold on the farm. There was not a threshold in the statute's definition of agriculture. He did not think the intent of the statute was to disqualify a farm as agricultural if they had a bad year. M. Fougere agreed that was the intent. He explained that P. Endres came in two years ago to start the cider tasting without having on site apples. Product had to be imported and the property was not considered a farm at the time. P. Endres reviewed the plan for planting and future agricultural farming aspects of the business.

P. Karr and D. Beck did not want an Applecrest on their road. D. Beck stated that it was going to change the neighborhood. She did not believe the Planning Board had the authority to grant the use. B. Dion stated there would be a thorough investigation of the use.

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B. Dion commented that there were farms in other parts of the State that have experienced significant crop losses this year. P. Endres stated that the Bay protected them from the frost, and they did not have any frost damage.

B. Dion closed public comments and returned to the Board for further discussion. There were no additional comments from the Board.

3. **Lot Line Adjustment**

61 Bayside Road (R17, 9) and 77 Bayside Road (R17, 9B)

Owner of Record – 61 Bayside Road: Patrick and Maribeth Karr

Owner of Record – 77 Bayside Road: Evan Joseph Tracz, Tavus Begenjjova, Joseph Tracz, Lynda Tracz

Applicant: Alex Ross, Ross Engineering

The owners and applicant are proposing a lot line adjustment to better suit the site conditions and lines of occupation. The proposed area of Lot R17, 9B will be 120,448 square feet; Lot R 17, 9 will be 24,052 square feet.

Alex Ross, Ross Engineering, addressed the Board. Both owners were also present. The existing lot line and proposed lot line adjustment were noted on the plan. The lot line adjustment was proposed to better suit the conditions of the properties. Patrick Karr, 61 Bayside Road, noted that the last 18 inches of the driveway for 77 Bayside Road was on his property. A. Ross stated that they wanted to correct the encroachment of the driveway and the shed with the lot line adjustment.

Responding to S. Toth's question, it was stated that both property owners were in agreement with the lot line adjustment. M. Fougere saw no issues with the lot line adjustment. His only stipulation was that the lot corners be set before recording the plan.

MOTION: R. Winsor moved to accept the application for the lot line adjustment between 61 Bayside Road (R17, 9) and 77 Bayside Road (R17, 9B) as complete. Second - D. Moore; all in favor. MOTION CARRIED

B. Dion opened the hearing to public comments. P. Karr asked whose property the maple tree would be on with the lot line adjustment; the maple tree would be on his property. B. Dion closed the public hearing and returned to the Board for further discussion.

MOTION: R. Winsor moved to approve the lot line adjustment between 61 Bayside Road (R17, 9) and 77 Bayside Road (R17, 9B), according to the plan submitted by Ross Engineering, dated 05/23/2023, Job Number 22-114, with the following conditions: lot corners must be set prior to recording the plan. This plan is consistent with the Town's Site Plan Regulations and Zoning Ordinance. Second – J. McDevitt; all in favor. MOTION CARRIED

4. Approval of Minutes

MOTION: J. McDevitt moved to approve the minutes of Thursday, June 01, 2023. Second – D. Moore; five in favor, one abstained (R. Winsor). MOTION CARRIED

5. Consent Agenda: Approval of Invoices

There were no items on the Consent Agenda.

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6. Other Business

Impact Fees: The Board reviewed the draft of the Library Impact Fees prepared by M. Fougere (copy on file). A public hearing will need to be held by the Planning Board to propose the fees. The Board will then make a recommendation to the Board of Selectmen for adoption of the impact fees. Any homes built in the community that are not grandfathered would pay the impact fee. The fee for a single-family home would be \$3,930; two family home would be \$4,088. A copy of the fees is on file with the draft document.

M. Fougere explained that Tower Place is grandfathered: the Ordinance was not in place when the project was before the Board. Once a project is before the Board in the Design Review Phase, they are grandfathered from any zoning. Fees must be assessed at the meeting for any new developments.

Accounting of impact fees was discussed. M. Fougere explained that it was no different than taking a check a building permit. An impact fee account will be created, and the amount collected will be reported at the end of the year.

MOTION: R. Winsor moved to forward the impact fees for the Weeks Library to public hearing on Thursday, July 06, 2023. Second – D. Moore; all in favor. MOTION CARRIED

School Enrollment: Current school enrollment figures were given to the Board (copy on file). R. Winsor requested the school enrollment be added to the website.

Tower Place Off-Site Improvements: Altus Engineering, M. Fougere and the applicant have discussed the off-site improvements for the Tower Place project. Altus Engineering felt the easiest and fairest way to handle those improvements would be to have the applicant pay for the finished coat from the entrance to Tower Place (aka Summer Wind) to Breakfast Hill Road. The applicant has agreed to pay up to \$35,000. M. Fougere noted the road was in bad condition. Road repairs will be the last thing done. The Town's obligation is to rebuild the road so the applicant can apply the finished coat.

Vacant Pad at Target/Lowe's: M. Fougere has been in contact with New England Development regarding the vacant pad adjacent to Target. NE Development has been talking to a couple of commercial users: one would take over the pad in its entirety and the other may go in the parking lot. They will be before the Board when plans are finalized.

Responding to S. Toth, M. Fougere stated there would be more revenue generated if two commercial uses were built. R. Winsor explained the value is on the structure not the property. M. Fougere noted that Target and Lowe's must sign off on anything that is done in that development. M. Fougere anticipates that it may be before the Board in the fall.

Commercial Property: R. Winsor will discuss commercial property in Town at the work session on Thursday, July 06th.

7. Topics for Work Session: Thursday, July 06, 2023

A tour of the Fire Department will be done during the August work session. Topics to be discussed include a presentation by Harmony Homes, the Capital Improvement Plan, the Town Center Zone, and fees for taking mylars to the Registry of Deeds.

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8. Adjournment

MOTION: J. McDevitt moved to adjourn at 7:45 p.m. Second – S. Smith; all in favor. MOTION CARRIED

NEXT MEETING

Thursday, July 06, 2023 – 6:30 p.m., Town Hall Conference Room

Submitted By: Charlotte Hussey, Administrative Assistant