

**MINUTES
TOWN OF PARSONSFIELD
PLANNING BOARD MINUTES
6:00 PM
Tuesday, May 19, 2021
TOWN OFFICE BUILDING**

I. Call to Order Special Meeting with Mark and Scott Mounce at 5:30 p.m.

Acting Chair Allen Jackson called the meeting to order at 5:37 p.m.

Present: Sabin Beckwith, Gerard Clifford, Allen Jackson, Thelma LaVoie, Andy Yale, Clifford Krolick (Alternate), Code Enforcement Officer Jesse Winters, Recorder Desirae Lyle

Guests Present: Selectmen Harvey Macomber, Roger Moreau, Jill Cramer – Attorney for Mr. Moreau, Michael LaLonde, Michael Nelligan, Jeff Wright, Mark Haley, Justin Espinosa, Judy Ingram, Lyn Sudlow, Corey Lane (of Porter)

II. Discussion

Allen Jackson noted that he has invited the Code Enforcement Officer (CEO) to attend all future Planning Board meetings. Allen also asked that if someone would like to speak, they need to be a taxpayer and a citizen of Parsonsfield, and if anyone has a representative speaking for them that the Parsonsfield resident introduce the representative before they speak. The Board then introduced themselves.

The Mill project presented by the Mounce's was approved at the September 15, 2020 meeting. The Notice of Decision letter was never sent to the Mounce's after the approval. The Board discussed the application and the letter of approval.

Judy Ingram the Parsonsfield representative to the Saco River Corridor Commission (SRCC) confirmed that Mr. Mounce does have approval from SRCC.

Allen Jackson asked if the Mr. Mounce is the property owner and if they carry commercial liability insurance on the property and if a copy of that insurance has been given to the Town. Mr. Mounce stated that they do not own the property and that they do have insurance, but he is unsure if a copy has been given to the Town. Allen also asked if the Mounce's have obtained an approved new septic plan. Mr. Mounce stated that they are in the process of working on this.

Andy Yale made a motion that the Planning Board secretary, Desirae Lyle, formulate a Notice of Decision letter based on the video and minutes of the prior meeting at which this plan was approved. The motion was seconded by Thelma LaVoie. Motion carried with 4 in favor 1 against.

Sabin Beckwith made a motion to adjourn the special meeting. The motion was seconded by Andy Yale. Motion carried with all in favor.

III. Call to Order Regular Meeting at 6:00 p.m.

Acting Chair Allen Jackson call the regular meeting to order at 6:01 p.m.

IV. Correspondence

Desirae Lyle advised the Board that Andy Yale who was absent from the beginning of the last meeting held on April 21, 2021, has reviewed the minutes from that meeting and listened to the recording or watched the video of the proceedings. He has completed the "Member's Affidavit Regarding Missed Planning Board Meetings" attesting to this fact and will therefore be allowed to participate in the approval process for tonight's agenda item. The original copy of the affidavit will be filed in the official Planning Board Meeting Minutes file. A copy will also be filed in the Planning Board file for this proposed project.

Desirae Lyle noted that an email and letter were received from Jill Cramer, attorney for Mr. Moreau, on May 6, 2021. Hard copies of the letter have been distributed to the Board.

Town Attorney, David Lourie submitted a letter to the Board via email dated May 14, 2021, regarding Mr. Moreau's application. Hard copies of the letter have been distributed to the Board.

David Silk, attorney for Michael Nelligan, also submitted a letter to the Board via email dated May 18, 2021, regarding Mr. Moreau's application. Hard copies of the letter have been distributed to the Board.

V. Review of Minutes (April 21, 2021)

Allen Jackson made a motion to approve the minutes as written. The motion was seconded by Andy Yale. Motion carried with all in favor.

The May 5, 2021, workshop meeting minutes were not available currently.

VI. Old Business

A. Site Plan Review – Roger Moreau – 26 Reed Lane – Map R19, Lot 044 – Automotive Repair Shop

Andy Yale asked to speak about Mr. Nelligan and his attorney Mr. Silk continuously asking that he recuse himself from the proceedings. Andy has voted in favor of and against this project in the past. His decisions are governed by the ordinances. Gerard Clifford reminded the Board that there needs to be a vote taken by the Board members since an abutter is asking that a Board member recuse themselves.

Allen Jackson made a motion to let Andy Yale continue as a voting member during Mr. Moreau's application process. The motion was seconded by Sabin Beckwith. Motion carried with 3 in favor, 1 against. Gerard Clifford did not vote since he has recused himself from Mr. Moreau's application and Andy Yale did not vote as this is regarding his participation. Andy will continue to participate in the application process for Mr. Moreau.

At this time Gerard Clifford moved into the audience as a private citizen.

Desirae Lyle distributed 11" by 7" plans of the proposed project to the Board.

Andy Yale noted that CEO, Jesse Winters, has been reviewing the distances between the well and the shop (garage). The Board needs to respect the distances. Jesse confirmed that as of today the Board needs to adhere to the three hundred (300) foot distance guidelines set by the Department of Environmental Protection (DEP). Cliff Krolick noted that if the Board is adhering to the DEP guidelines and the maps presented by the applicant aren't changed to reflect the three hundred (300) feet, the Board has nothing to review.

Roger Moreau introduced his attorney, Jill Cramer. Ms. Cramer would like to clarify some issues before the Board. She agrees that the current garage is located too close to the neighbors private drinking well. The plan that was just distributed to the Board by the secretary has a proposed new site for the garage, Mr. Moreau will either move the existing garage or build a new one. Ms. Cramer explained that the private way plan has been revised. Ms. Cramer's letter dated May 6, 2021, addresses the issues raised at the April 21, 2021, meeting. (A copy of this letter is included with the file for this project.) Ms. Cramer expressed that the applicant is willing to follow any conditions that the Board may set for this project. Ms. Cramer has no issue with Mr. Yale's continued participation in this project. Ms. Cramer asked that the Board grant the applicant a waiver for Land Use Ordinance (LUO) Article III, Section 5, Subsection B (1) *The bearings and distances of all property lines of the property to be developed and the source of this information.* Ms. Cramer feels that the Board has enough information on the current survey plan, that Mr. Moreau shouldn't have to spend the money for a full boundary survey of twelve (12) acres, when he is only moving the garage twenty five (25) feet, this would be an unnecessary financial burden. Ms. Cramer then addressed the letter from the Town's attorney, David Lourie. (A copy of this letter is included with the file for this project.) Ms. Cramer noted that Mr. Lourie has told that Board that they may not be able to allow two (2) primary uses on the same lot. Right now, there is a single family residence and Mr. Moreau is proposing a new use, an automotive repair garage, which is an allowed use in the village residential zone where he lives. Ms. Cramer remarked that Mr. Lourie brought up and Mr. Silk maintains that there can't be two (2) primary uses. Ms. Cramer noted that she has found four (4) places in the LUO that reference multiple principle uses. First, and Ms. Cramer noted that this is unrelated to what is being discussed, Article II, Section 6, Subsection L (2) (e) *The joint use of a parking facility by two or more principal buildings or uses may be approved by the Planning Board where it is clearly demonstrated that said parking facilities will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of such establishments.*

Second, Article II Section 8, Subsection E (e) *If more than one residential dwelling unit, principal governmental, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.* Third, Article II Section 8, Subsection E (5) *When an individual campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.* Ms. Cramer stated that the LUO allows multiple times for two (2) primary uses on a single lot. Ms. Cramer noted that the MMA (Maine Municipal Association) Manual guidance provides that any ambiguities in the ordinance should be construed in favor of the landowner. Ms. Cramer offered to answer any questions the Board may have about the proposed new location of the garage. She mentioned that there is no exterior lighting and there will not be any exterior lighting. She noted that there is one hundred (100) feet of buffer between the right-of-way and the abutting parcel.

Gerard Clifford commented, from the audience, on the incompleteness of the sketch plan, and that it doesn't show any of the abutters on it. Mr. Clifford also commented that the property used to be in resource protection and is still a very wet piece of land. Ms. Cramer asked to respond and noted that the sketch plan was provided to the Town with the original application with a tax map showing all the abutters and a list of those abutters. Desirae Lyle noted that the abutters notice for this project were mailed on April 1, 2021. Ms. Cramer stated that this is not an industrial project and that the Town attorney had noted that any past behavior should not impact this Board's decision.

Andy Yale mentioned that he believes that there are fourteen (14) abutters, two (2) of which originally opposed this project, one (1) who spoke in favor and others have never remarked on it. Andy stated that the Board should consider that in preponderance of the local sentiment.

Michael Nelligan asked to speak and relayed the message from Mr. Silk that he wanted to make sure that the Board reviewed the document he sent. Mr. Nelligan reminded the Board that they have not reviewed the application for completeness. Mr. Nelligan clarified that there are two (2) other abutters that oppose this project, and even if only one (1) person opposed this that shouldn't take into effect anything that this Board decides.

Allen Jackson asked the CEO to respond to two (2) things. Cease or desist orders, and any violations that are open currently. Jesse Winters stated that there are no open violations. Jesse explained that a Stop Work order had been issued prior to the first Planning Board meeting which was in effect until Mr. Moreau gained Planning Board approval. He received the approval (September 2020) from the Planning Board. Jesse mentioned that he has spoken to the Selectmen, and they agreed to wait to see what the Planning Board decides before another Stop Work order is issued.

Mr. Nelligan noted that a FOA (Freedom of Access) request was sent to the Town Clerk requesting any permits. There were none, and Mr. Nelligan feels that Mr. Moreau does not have a Certificate of Occupancy which is one (1) of the required permits. Mr.

Nelligan also asked for letters of compliance from the CEO to Mr. Moreau and was given nothing.

Jesse Winters remarked that when Mr. Moreau received his approval from the Planning Board, he did not need to issue any letter of compliance. Jesse noted that the Certificate of Occupancy was issued in 2016 when he built the garage, it's always been a garage and it's still valid. David Bower was the CEO that issued the permit and did all the inspections.

Mr. Nelligan stated that Mr. Moreau's 2015 application was for a two (2) bay garage for storage, he built something different and started the auto repair shop. Mr. Nelligan noted that Mr. Moreau has changed or is proposing to change the use from a garage for storage to a commercial auto repair garage. In the ordinance it says if you change the use, you need a certificate of occupancy.

Andy Yale noted that a lot of information has been received. Andy is concerned that the Board is being told what to do. Andy suggested that the Board review the application for completeness. Andy asked Secretary Desirae Lyle what her thoughts are. Desirae suggested that the Board go through each part of the LUO Site Plan Review and determine if the application meets all the criteria.

Allen Jackson read aloud LUO Article 1, Section 6 Subsection D (3) *Rear Lots - A rear lot (lacks frontage) that meets size requirements but is accessible only by a right-of-way that does not meet the width requirements may be used for a single dwelling or other single permitted use provided that the right-of-way existed at the effective date of this Ordinance or amendment, and that a wider right-of-way cannot be negotiated with abutting landowners, and that all other relevant provisions of this Ordinance can be met.* The right-of-way is on Mr. Moreau's property and has not been changed on the abutter side it was changed on Mr. Moreau's property only does meet the right-of-way requirements.

Justin Espinosa asked to speak and introduced himself. He stated that from his experience as a Planning Board member the Board should go through the application and each member should vote whether or not each item meets the conditions for completeness.

Mr. Clifford noted again that the sketch plan does not show the abutters.

Cliff Krolick has concerns about the zone and the commercial nature of the business.

Cliff Krolick made a motion to deny the application as not complete. Andy Yale stated that he doesn't believe that the Board can deny the application without going through the site plan review checklist like Mr. Espinosa said. The motion was not seconded and failed.

Mr. Clifford mentioned that the Board needs the information from the ZBA (Zoning Board of Appeals).

The Board reviewed the site plan review checklist that is on the front of the application.

1. *One original fully executed and signed application for Site Plan Review (this document), plus nine (9) copies - Submitted*
2. *Ten (10) copies of site plan drawn at a scale to allow review of list of approval criteria, and showing the following, when applicable: Submitted.*

General Submission Information:

- a) *name and address of all property owners within 500 feet of edge of property line – Submitted*
- b) *sketch map showing general location of site within the Town – Submitted.*
- c) *boundaries of all contiguous property under control of owner/applicant regardless of whether all or part is being developed at this time – Submitted.*
- d) *copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title or interest – Submitted.*
- e) *name, registration number and seal of the land surveyor, architect, engineer and/or similar professional who prepared any plan Existing Conditions: - Submitted needs to be signed and sealed once finalized.*
- f) *bearings and distances of all property lines of property to be developed and source of information – Applicant requests a waiver.*
- g) *location and size of any existing sewer and water mains, culverts and drains that will serve the development whether on or off the property, along with the direction of existing surface water drainage across the site – Submitted on first plan but needs to be on final plan.*
- h) *location, names and present widths of existing streets and rights-of-way within or adjacent to the proposed development – Submitted.*
- i) *location, dimensions and ground floor elevations Above Ground Level (AGL) of all existing and proposed buildings on the site – Submitted.*
- j) *location and dimensions of existing driveways, streets, parking and loading areas and walkways on the site – Submitted.*
- k) *location of intersecting roads or driveways within 200 feet of site – Submitted.*
- l) *location of open drainage courses, wetlands, stands of trees, and other important natural features, with description of features to be retained and of any new landscaping – Needed.*
- m) *location, front view, and dimensions of existing and proposed signs – Submitted.*
- n) *location and dimensions of any existing easements and ten (10) copies of existing covenants or deed restrictions – Submitted.*

Proposed Development Activity:

- o) *location of all building setbacks, yards and buffers, required by this or other Town Ordinances – Submitted.*
- p) *location, dimensions and ground floor elevations Above Ground Level (AGL) of all proposed buildings – Submitted.*
- q) *location and dimensions of proposed driveways, parking and loading areas, and walkways – Submitted.*
- r) *location and dimensions of all provisions for water supply and wastewater disposal – Not applicable.*
- s) *direction and route of proposed surface water drainage – Submitted but needed on the final plan.*

- t) *location, front view, and dimensions of proposed signs* – Submitted.
- u) *location and type of exterior lighting* – None.
- v) *proposed landscaping and buffering* – Natural buffering nothing proposed, needs to be on final plan.
- w) *demonstration of any applicable State applications or permits which have been or may be issued* – DOT permit in application. DEP permit for containment will need to be obtained upon approval of project.
- x) *schedule of construction, including anticipated beginning and completion dates* – Submitted in the letter from Ms. Cramer dated May 6, 2021.
- y) *Space shall be provided on the plan for the signatures of the Planning Board and date, together with the following words, "Approved: Town of Parsonsfield Planning Board* – Submitted.

Andy Yale noted that the applicant has tried to work with the Board and comply with all the requirements asked of him.

Justin Espinosa noted the Board can vote the application incomplete and issue a letter of items that need to be addressed.

Jesse Winters offered that he has a wetlands map in his office that the Board can review.

Mr. Clifford mentioned again that the abutters need to be shown on the sketch plan.

Mr. Nelligan stated that at the January 12, 2021, ZBA meeting the ZBA reversed the Planning Board decision, and Mr. Moreau has still been operating. Mr. Nelligan does not agree that Mr. Moreau has been complying. Mr. Nelligan stated that his attorney has submitted complaints to the Selectmen.

Andy Yale made a motion that the application is incomplete and request that the secretary send a letter of incompleteness to Mr. Moreau listing the requirements that Mr. Moreau needs to address. The motion was seconded by Sabin Beckwith. Motion carried with all in favor.

The items that Mr. Moreau needs to address are:

1. The bearings and distances of all property lines of the property to be developed and the source of this information.
2. The location of open drainage courses, wetlands, stands of trees, and other important natural features on the site, with a description of the features being retained.
3. The direction and route of proposed surface water drainage.
4. The proposed landscaping and buffering.

Mr. Nelligan pointed out that the conditions placed upon the applicant at the last meeting have not been voted on by the Board.

Allen Jackson made a motion that the three (3) conditions from the previous meeting are approved and accepted. The motion was seconded by Sabin Beckwith. Motion carried with all in favor.

Andy Yale reminded the Board that Mr. Moreau's attorney has asked for a waiver for the *bearings and distances of all property lines of property to be developed and source of information*. The Board did not discuss granting a waiver.

VII. New Business

A. Move up Vice Chair to Chair and Elect a New Vice Chair

Gerard Clifford made a motion to nominate Sabin Beckwith as Vice Chair. Motion was seconded by Thelma LaVoie. Motion carried with 3 in favor, 2 against (Cliff Krolick voted, Sabin Beckwith did not vote).

Gerard Clifford made a motion to nominate Allen Jackson as Chair. The motion was seconded by Sabin Beckwith. Motion carried 5 in favor, 0 against (Cliff Krolick voted, Allen Jackson did not vote).

Andy Yale made a motion for a five (5) minute recess at 7:14 p.m. The motion was seconded by Gerard Clifford. Motion carried with all in favor.

The Board reconvened the meeting at 7:25 p.m. Board members Thelma LaVoie and Cliff Krolick left during the recess.

Guest present: Mark Haley, Selectmen Harvey Macomber, Justin Espinosa, Jeff Wright

B. Site Plan Review – Mark Haley – 16 Gayles Lane – Map R8, Lot 32B – Garage Apartment

1. *One original fully executed and signed application for Site Plan Review (this document), plus nine (9) copies - Submitted*
2. *Ten (10) copies of site plan drawn at a scale to allow review of list of approval criteria, and showing the following, when applicable: Submitted*

General Submission Information:

- a) *name and address of all property owners within 500 feet of edge of property line – Submitted*
- b) *sketch map showing general location of site within the Town - Submitted.*
- c) *boundaries of all contiguous property under control of owner/applicant regardless of whether all or part is being developed at this time – Submitted.*
- d) *copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title or interest – Submitted.*
- e) *name, registration number and seal of the land surveyor, architect, engineer and/or similar professional who prepared any plan Existing Conditions: -*

Submitted, but a copy with the name of the land surveyor and seal needs to be submitted.

- f) *bearings and distances of all property lines of property to be developed and source of information* – Submitted but need to confirm that they are to scale.
- g) *location and size of any existing sewer and water mains, culverts and drains that will serve the development whether on or off the property, along with the direction of existing surface water drainage across the site* – Submitted.
- h) *location, names and present widths of existing streets and rights-of-way within or adjacent to the proposed development* – Submitted.
- i) *location, dimensions and ground floor elevations Above Ground Level (AGL) of all existing and proposed buildings on the site* – Needed.
- j) *location and dimensions of existing driveways, streets, parking and loading areas and walkways on the site* – Not applicable.
- k) *location of intersecting roads or driveways within 200 feet of site* – Submitted.
- l) *location of open drainage courses, wetlands, stands of trees, and other important natural features, with description of features to be retained and of any new landscaping* – Not applicable.
- m) *location, front view, and dimensions of existing and proposed signs* – Not applicable.
- n) *location and dimensions of any existing easements and ten (10) copies of existing covenants or deed restrictions* – Not applicable.

Proposed Development Activity:

- o) *location of all building setbacks, yards and buffers, required by this or other Town Ordinances* – Not applicable.
- p) *location, dimensions and ground floor elevations Above Ground Level (AGL) of all proposed buildings* – Needed.
- q) *location and dimensions of proposed driveways, parking and loading areas, and walkways* – Not applicable.
- r) *location and dimensions of all provisions for water supply and wastewater disposal* – Not applicable.
- s) *direction and route of proposed surface water drainage* – Not applicable.
- t) *location, front view, and dimensions of proposed signs* – Not applicable.
- u) *location and type of exterior lighting* – Possibly.
- v) *proposed landscaping and buffering* – Not applicable.
- w) *demonstration of any applicable State applications or permits which have been or may be issued* – Not applicable.
- x) *schedule of construction, including anticipated beginning and completion dates* – Dependent upon material prices. The building permit can be obtained, and the building would need to be completed within eighteen months. At that time if the project has not been completed, he can apply for an extension from the CEO for the building permit.
- y) *Space shall be provided on the plan for the signatures of the Planning Board and date, together with the following words, "Approved: Town of Parsonsfield Planning Board* – Not applicable.

The Board has found the application incomplete at this time.

Andy Yale made a motion that the application is incomplete and asked that the secretary send a letter of incompleteness to Mr. Haley listing the conditions that he needs to address. The motion was seconded by Gerard Clifford. Motion carried with all in favor.

The items that Mr. Haley need to address are:

1. name, registration number and seal of the land surveyor, architect, engineer and/or similar professional who prepared any plan Existing Conditions.
2. location, dimensions and ground floor elevations Above Ground Level (AGL) of all existing and proposed buildings on the site.

Jesse Winters asked that the Board address the dimensional requirements.

Allen Jackson pointed out Table 2 of the LUO note number one (1): *Planning Board may reduce lot size and frontage requirements if wastewater disposal and other requirements in Ordinance can be met.* This will need to be address once the application is complete.

C. Site Plan Review – Ben & Donna Bassett – 8 Sumner Lane – Map U7, Lot 20 – Expand Existing Cabin

The applicant was not present therefore this agenda item was not discussed.

Gerard Clifford made a motion to table this application until the next meeting on June 16, 2021. The motion was seconded by Andy Yale. Motion carried with all in favor.

VIII. Open to Public Questions

There were none.

IX. Contacting Maine Municipal Association

Allen Jackson relayed the message that the Planning Board Chair and Secretary Desirae Lyle are the only ones authorized at this time to contact MMA. There was an extensive discussion on this subject. Precedent has been set that all members have been able to contact MMA.

Mr. Wright asked to speak and introduced himself. He agrees that one (1) person should be the representative to contact MMA.

JP Espinosa asked to speak. He stated that as a past chair of the Planning Board the chair was the only one allowed to contact and speak directly with the Town Attorney. But with MMA it was open and at the chair's discretion.

Harvey Macomber asked to speak. He explained that the reason MMA puts restrictions on who can contact them is that if every member of every board contacted them, they would be inundated.

Andy Yale offered a compromise that the Board chair should designate someone to contact MMA on a rotation of members.

Sabin Beckwith made a motion that on a case by case basis the chair should designate a member to contact MMA. The motion was seconded by Andy Yale. The motion was carried with 3 in favor, 1 against.

X. Schedule Workshop for Wednesday, June 2, 2021

Allen Jackson made a motion that there is no need to have a workshop on Wednesday, June 2, 2021. The motion was seconded by Sabin Beckwith. Motion carried with all in favor.

XI. Adjournment

Andy Yale made a motion to adjourn at 8:05 p.m. It was seconded by Allen Jackson. Motion carried with all in favor.

Respectfully Submitted,



**Desirae Lyle
PPB Secretary**

Approved by the Board at the June 16, 2021, Meeting.



Chair, Vice Chair, Acting Chair Signature