

**MINUTES
TOWN OF PARSONSFIELD
PLANNING BOARD
6:00 PM
Wednesday, August 17, 2022
TOWN OFFICE BUILDING**

I. Call to Order

Allen Jackson called the meeting to order at 6:00 p.m.

Present: Sabin Beckwith, Allen Jackson, Andy Yale, Roger Moreau (Alternate), Code Enforcement Officer Jesse Winters, Recorder Desirae Lyle

Absent: Aaron Bogue, Gerard Clifford

Guests Present: Selectmen Harvey Macomber, Colleen Allard, Steve McCusker, Michelle Anderson, Deborah Edwards, Eileen Harmon, Cliff Krolick, Lyn Sudlow, Debra Miller, Karen Flannery, Peter Spielvogel, Jeff Wright, Peter Cormier of Porter, Caleb Hege

II. Public Hearing #1 – Site Plan Review – Colleen Allard – 27 Federal Road – Map U04, Lot 040 – Proposed Propane Fill Station

Ms. Allard introduced herself, she is the owner of Village Variety (VV) and asked to address the impervious area. The amount of pavement and building coverage on the 1.38-acre lot is less than sixty percent (60%). She noted that she used the Town maps to determine the acreage of the combined four (4) lots, she used Metcalf's Surveying to complete the surveys when each lot was combined. The CEO (Code Enforcement Office) has measured the lot.

Cliff Krolick asked the Board if there is already an approved gas (propane) filling station in the Kezar Falls region. The hardware store next door is an approved propane filling station.

Jeff Wright asked if there was ever a "dug out" area or stream behind Village Variety. He stated that ten (10) years ago there was something there. A swale was dug to help with drainage that went to the Post Office. Ms. Allard commented that she dried up the area behind the store.

Peter Cormier asked to speak, but the Board asked him to wait until all Parsonsfield residents have a chance to speak.

Michelle Anderson commented that the store has been unable to get their tanks refilled for the last two (2) months. VV has worked with Mr. Cormier and has sent business to him. Ms. Anderson noted that the hardware closes at 4:00 p.m. and they have customers that need propane all day long.

Jeff Wright asked about Family Dollar and if they still sell propane tanks. He then asked if Ms. Allard received or requested a variance for the original use of a gas station. Ms. Allard commented that she doesn't believe that this has anything to do with what she is requesting tonight. He asked again if she received a variance for the impervious area during the

approval of the gas station. CEO Jesse Winters was asked to answer, the gas station was approved before Jesse became CEO.

Andy Yale made a motion that based on the fact that he owns a business in Parsonsfield and is directly involved and it directly affects his business that Mr. Cormier be allowed to speak. Sabin Beckwith seconded the motion. Motion carried with all in favor.

Peter Cormier showed the Board a sheet detailing the sale of propane tanks at the hardware store. He understands that Ms. Allard has a business to run and he respects that. Mr. Cormier has worked with Ms. Allard in the past. He feels that his business and property value will be greatly diminished if this is approved. Ms. Allard reminded the Board that it is not their job to govern what each store has a right to sell and not sell.

Andy Yale asked Ms. Anderson if she or Ms. Allard would be willing to modify when she sells propane to the hours that the hardware is closed. Ms. Anderson noted that VV is open almost double the amount of time that the hardware is open. Ms. Allard is not willing to sell propane only during certain hours, Mr. Cormier's customers are loyal to him. Sabin Beckwith asked Ms. Allard how long she has been selling propane (canisters). She has been selling this product for over thirty (30) years. The reason she is requesting approval for a fill station, is that she has not been able to reliably receive the product and serve her customers.

Sabin Beckwith made a motion to close the public hearing at 6:25 p.m. Roger Moreau seconded the motion. Motion carried with all in favor.

III. Correspondence

- a. The Board decided that all of the correspondence sent and received will be discussed with the appropriate agenda item.
- b. Andy Yale did submit to the Board an ordinance regarding State Law LD 2003.

IV. Review of Minutes (July 20, 2022)

Allen Jackson noted that there is an error in the date on page 3 of the minutes, it should read 2023 not 2022.

Sabin Beckwith made a motion to approve the July 20, 2022 minutes as amended. Roger Moreau seconded the motion. Motion carried with all in favor.

V. Old Business

a. LD 2003 Discussion

Andy Yale mentioned that he had emailed a signature page to the Selectmen for them to sign to show their support against LD 2003. Andy would like the Planning Board to sign it as well. He also noted that the surrounding Town's have a letter ready to go to State officials detailing concerns about LD 2003. Andy will make sure that the Selectmen sign in and will have that copy for the Board to sign at the next meeting.

Andy gave a brief overview of LD 2003, explaining that the State Legislature has passed a law that allows property owners to place up to four (4) dwelling units on any one (1) property with an existing dwelling unit regardless of density. There are at least fifteen (15) towns in the area that are against this, because it takes away “home rule”.

b. Site Plan Review – Colleen Allard – 27 Federal Road – Map U04, Lot 040 – Proposed Propane Fill Station

Desirae Lyle informed that Board that a letter of Incomplete Application was sent to the applicant, who has since submitted the requested information. Desirae also noted that the Site Walk and tonight’s Public Hearing was advertised in Your Weekly Shopping Guide. Allen Jackson noted that the information submitted is very detailed. Sabin Beckwith agreed that the documentation provided was complete and detailed.

Sabin Beckwith made a motion that the application is complete based on the submission of the requested additional information. Roger Moreau seconded the motion. Motion carried with three in favor, Andy Yale abstained.

Andy Yale noted his concern that there are no plans for vegetative buffers around the fill station and that there were no requirements for vegetative buffers in front of the redemption center. There are buffers at the front of the property. Andy read from the Land Use Ordinance (LUO) Article II, Section 6, Subsection J, Paragraph 2 *Commercial and Industrial Uses Active, non-residential uses will maintain the first fifteen (15) feet from the edge of the right-of-way to all buildings, structures and designed impervious areas as a green strip (excluding driveways). The green strip must consist of a maintained vegetated area (e.g., lawn, garden, landscaped shrubbery), with a minimum 2-1/2" DBH. or larger deciduous shade tree, spaced approximately every twenty-five (25) feet or a shrub at least three (3) feet in height placed at least every ten feet, along the green strip and parallel to the right-of-way. In order to ensure proper visibility for entering and departing vehicles, all driveway entrances and exits will be kept free from visual obstructions higher than three (3) feet above street level for a distance of twenty-five (25) feet measured along the intersecting driveway and street lines.* He suggested holding off on completing the review of this application until this matter is corrected. Another of Andy’s concerns is on page 11 of the submitted information, item v.) *Proposed landscaping and buffering No new landscaping or buffering is anticipated at this time. A future fence line project is anticipated along the south and west and a rear gate between U04-40 and U04-43 for safety and security. The Propane Distribution will be enclosed within a 6' tall security fenced area, with two accessible gates, and protected by concrete bollards, in accordance with NFPA standards.* Also on page 12 of the information: *E.1 – Request to waive fencing around the entire proposed use.* This will not be waived as Ms. Allard has already stated that a fence will be erected around the fill station. Sabin Beckwith asked if any clearing of vegetation or work had been done to the property in preparation for the fill station. Ms. Allard replied that nothing is new, everything that the Board saw at the site walk is a result of the approved redemption center. Allen clarified that this application is only to address the fill station.

The Board asked Desirae Lyle to send a question to MMA (Maine Municipal Association) about enforcement of the green strip. CEO Jesse Winters commented that there were no green spaces for the redemption center because of the truck pulling in to deliver to Village Variety. Not having the green space gives them plenty of room to turn around and park off of Wadleigh Street, which relieved the congestion. Andy Yale agreed to withdraw his objection as long as this is documented in the approval of the redemption center.

Andy Yale raised the concern about the affect on neighboring properties. Sabin Beckwith noted that the two businesses being next to each other is the nature of the village, and both will have loyal customers that won't buy from the competition. It is not up to this Board to resolve disputes between neighbors. The Board needs to look at the application and determine if the use Ms. Allard is asking for aligns with the LUO.

Sabin Beckwith made a motion to accept and approve the application as submitted. Roger Moreau seconded the motion. Andy Yale cautioned the Board on approving this application. Each member expressed that they don't completely agree with the two uses next to each other, but the Board has to follow the ordinances. Andy asked the members to consider the impact on the neighboring properties. Allen Jackson noted that this use is not detrimental to the neighborhood. The Board agreed that there are no conditions for Ms. Allard to adhere to. Allen called for the vote on the motion made by Sabin. Motion to accept and approve the application carried with three in favor, one opposed.

VI. New Business

(NOTE: The Board discussed items c. and d. prior to a. and b. The minutes reflect the agenda order.)

Sabin Beckwith made a motion to promote Roger Moreau to voting member for all of the new business items. Allen Jackson seconded the motion. Motion carried with all in favor.

a. Budget Process/Submission

Desirae Lyle explained that the budget process has been completed and that Selectman Harvey Macomber had mentioned that there may be money in the general budget to have the maps updated. Desirae did get a response from SMPDC (Southern Maine Planning and Development Commission). Raegan Young said that there are multiple layers to the maps and suggested that many towns are separating their shoreland zoning maps from the land use maps. Since the Board is considering making the shoreland zoning ordinance its own chapter this may be a good idea. Raegan estimated that the cost to update the maps completely would be \$2500.00. Since the maps haven't been updated in thirteen (13) years this is something that the town should look into. Andy Yale asked if it is necessary to keep the parcels on the zoning map. Desirae suggested keeping them because some lots are in multiple zones and having them on the zoning map makes it easier to determine which zones. Desirae will work on putting a budget proposal together for next fiscal year.

b. Zoning Board of Appeals Decision Letter (7/28/2022)

Desirae Lyle noted that the Board has a copy of the decision letter from the Zoning Board of Appeals (ZBA) as well as multiple emails from the town attorney. Andy Yale commented that he is the longest sitting Board member. He believes that the Board has ruled on the Moreau application four (4) separate times. It was denied once and approved at least three (3) times. It's been to the ZBA at least twice and if Andy is correct, it is currently in Superior Court, has been there before and was sent back to the town. The ZBA is to act in an appellate capacity, they can remand the matter to the Planning Board, deny the appeal or grant the appeal. This time they chose to remand it to this Board with instructions to follow. Andy has never seen the town's attorney participate so directly with any other case in the last four (4) years. The decision letter appears to be drafted by the town attorney not by the ZBA members.

Andy Yale made a motion to refuse to act on this decision letter at all and let it be dealt with in Superior Court, it doesn't serve anyone applicant, petitioner, Town of Parsonsfield, or town's people to continue to bounce this thing back and forth ad infinitum, and it undermines the whole purpose of this Board and the government of the Town.

Allen Jackson agrees with Andy's sentiments and added that he would like to know what gives the ZBA the right to say "The BOARD OF APPEALS therefore concludes that the site plan approval and change of use approval were improvidently granted and are hereby reversed. The Application is remanded to the planning board with instructions to deny the application." Allen agreed that the Planning Board will not be acting on this letter and that the ZBA should handle their business and not instruct the Planning Board how to do theirs. The Planning Board followed the ordinances when reviewing the Moreau application.

Sabin Beckwith agreed with Allen, noting that he attended the initial ZBA meeting and felt that the town's attorney ran the meeting by sitting with the Board. Sabin felt that the attorney guided the ZBA to say what he wanted, and the letter further shows the attorney's influence. Sabin suggested that the Board reject the letter.

Sabin Beckwith seconded the Andy Yale's motion. Andy added that the Planning Board has had multiple findings of fact for and against this application over the process of four (4) years and the ZBA acted improperly. Allen Jackson called for a vote on Andy's motion. Motion carried with all in favor. (Roger Moreau did not vote on this item.)

Desirae Lyle asked to note that on the decision letter that the ZBA did vacate the decision and then later in the letter remanded it to the Planning Board. She had asked why it needed to come back to the Planning Board if the ZBA vacated the approval, but was told that it needed to be done.

c. Zoning Change for Single Property – William & Eileen Harmon – Map R01, Lot 029 – Support needed to send back to Selectmen to be on Town Meeting Warrant

Andy Yale has reviewed this request and would like Mrs. Harmon to have her house there. There is another avenue of placing this request as a warrant article to go before a town meeting to be approved. Andy is concerned that this would set a precedent for anyone looking to get the zone changed for their property. Allen Jackson is also concerned. Mrs. Harmon explained that other than the gravel pit beside her all of the properties beside her and across the street are residences. Mrs. Harmon explained that she has submitted a petition to the Town Clerk for him to certify if the signatures were valid voters. The Clerk sent it to the Selectmen without telling her that she didn't have enough signatures. Since she did not have enough signatures prior to submitting it to the Selectmen, the next step was to send it to the Planning Board. LUO Article I, Section 10, Subsection A. *Initiation A proposal for an amendment to this Ordinance may be initiated as permitted below and then must be acted on according to the procedures in subsection B and C below. 1. The Planning Board, by favorable majority vote of the entire regular membership of the Board; 2. The Town Selectmen, through a request to the Planning Board; 3. An individual or group through: (a) a request to the Planning Board and subsequent favorable majority vote of the Board, or (b) by a written petition with the signatures of registered Parsonsfield voters equal to at least ten percent (10%) of the votes cast in Parsonsfield in the last State gubernatorial election.* Andy asked if Mrs. Harmon has considered requesting a variance from the Zoning Board of Appeals. The Board discussed how to proceed and whether or not to hold a special Planning Board meeting, and if the Planning Board does agree and suggest that this be on the town warrant for September 10, 2022 would there be enough time for the Clerk to post this addition to the warrant. Selectman Harvey Macomber noted that the warrant for the September 10, 2022 town meeting has already been posted. Since the warrant has already been posted there is no rush to have a special meeting of the Planning Board to hurry this along.

Desirae Lyle reminded the Board of Article I, Section 10, Subsection B, Paragraph 1... *When an amendment is proposed by the petition process, a fee to cover the costs of public hearings must be paid by the petitioners. The amount of said fee is to be determined by the Planning Board.* The Board needs to set a fee for this. Desirae noted that usually for an application there is a \$25.00 application fee and a \$150.00 escrow fee. She asked the Board to direct her how to proceed.

Sabin Beckwith made a motion that a \$150.00 escrow fee be requested to cover the costs for the public hearing. Roger Moreau seconded the motion. Motion carried with all in favor.

Sabin Beckwith made a motion to hold a public hearing at the next Planning Board meeting, Wednesday, September 21, 2022 at 6:00 p.m. Roger Moreau seconded the motion. Motion carried with all in favor.

Andy Yale noted that this is something new for the Board and they should be very cautious on how they proceed with this zone change. A site walk should be done now, in case this is done again in the future.

Andy Yale made a motion to hold a site walk on Saturday, September 17, 2022 at 9:00 a.m. Sabin Beckwith seconded the motion. Motion carried with all in favor.

Allen Jackson made a motion that the executive secretary send abutter notices to the properties located within 500 feet of this property (Map R1, Lot 029). Sabin Beckwith seconded the motion. Motion carried with all in favor.

Andy Yale asked the applicant if she was aware of the zoning when she purchased the property. Mrs. Harmon explained that she was aware and that the seller had mentioned that he had been to the Town to start the process of the zoning change and that the town was in favor of the change, but it hadn't led anywhere. Mrs. Harmon expressed her exasperation about the lack of communication and that the process seems flawed. It was suggested that this may need to be changed when the Board updates the LUO.

d. Site Plan Review – Karen Flannery & Robert Spielvogel – Map U14, Lot 001 – Current & Proposed Use Seasonal Camp/Bathroom addition with utilities

Mr. Spielvogel asked to clarify that there is already an existing bathroom, they are not adding a new bathroom, but they are expanding the building, and moving the existing bathroom into the addition.

The Board reviewed the application and determined that the following items need to be submitted to the Board before they can approve it as a complete application.

- 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
- h) location, names and present widths of existing streets and rights-of-way within or adjacent to the proposed development
- j) location and dimensions of existing driveways, streets, parking and loading areas and walkways on the site
- k) location of intersecting roads or driveways within 200 feet of site
- 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
- n) location and dimensions of any existing easements and ten (10) copies of existing covenants or deed restrictions

Sabin Beckwith made a motion that the application is incomplete and that the applicant's need to submit the requested information prior to the next meeting. Roger Moreau seconded the motion. Motion carried with all in favor.

Desirae Lyle noted that an email has been received from an abutter concerning this application and asked if the Board would like to address it tonight. The Board decided that the abutter should come to the public hearing and speak to them then.

Sabin Beckwith made a motion to hold a site walk on Saturday, September 17, 2022 at 10:00 a.m. Andy Yale seconded the motion. Motion carried with all in favor.

Andy Yale made a motion to hold a public hearing at the next Planning Board meeting, Wednesday, September 21, 2022 immediately following the Harmon hearing. Sabin Beckwith seconded the motion. Motion carried with all in favor.

VII. Open to Public Questions

- a. Jeff Wright asked that the Board confirm that they go by the book (the LUO). Route 25 is a Light Industrial zone. He asked why the applicant didn't come to the Planning Board first to ask for a house lot. The ordinance is written that the owner has the option to go to the Planning Board or through the Selectmen by petition. This would not go to the ZBA, it would need to go before the legislative body (town meeting) to be voted on and approved by the Town.
- b. Mr. Wright commented that the Board should take their meetings more seriously. Sabin Beckwith commented that it's presumptuous to know what the Board members are thinking.
- c. Allen Jackson asked to remind the Board that they will be reorganizing at the next meeting (September 21, 2022). They will need to vote for a chair and a vice chair. The Board should also consider voting to retain the executive secretary for another year.
- d. Harvey Macomber noted that Sabin Beckwith did not get his nomination papers into the Clerk on time. He is willing to run as a write in candidate.

VIII. Schedule Workshop for Wednesday, September 7, 2022

Roger Moreau made a motion to not hold the September 7, 2022 workshop. Allen Jackson seconded the motion. Motion carried with all in favor.

IX. Adjournment

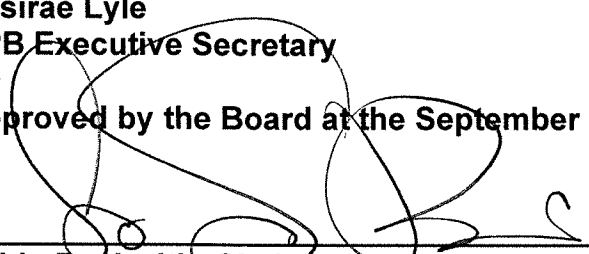
Andy Yale made a motion to adjourn at 8:22 p.m. Roger Moreau seconded the motion. Motion carried with all in favor.

Respectfully Submitted,



**Desirae Lyle
PPB Executive Secretary**

Approved by the Board at the September 21, 2022 Meeting.



Sabin Beckwith, Chair