

MINUTES OF THE CORNISH PLANNING BOARD

DRAFT

NOVEMBER 3, 1997

PRESENT: CHRIS BIRCHFIELD, BETH NEE, DAN CARUBIA, WOODROW HARTFORD, STEPHEN GAUTHIER

ALSO PRESENT: RAY ESTABROOK, CARLTON CANDAGE, WILLIAM FEASE AND PHIL KILLBURN

MEETING CALLED TO ORDER BY CHAIRPERSON AT 6:00 PM.

1. SEPT. 29 Minutes were reviewed and motion made to accept by Dan Carubia and seconded by Steve Gauthier.
2. Oct. 13th Workshop Minutes reviewed and motion made to accept by Woodrow Hartford and seconded by Steve Gauthier.
3. Jamie Carr requests to use video camera for meeting. Chairperson agrees if Jamie will use audio and block out video.
4. Proposal from Jamie Carr to allow for a Storage Facility and Redemption Facility on the Drive-In lot. The lot is zoned Commercial with an Aquifer Overlay. The maps do not show the overlay, but the Chairperson states that the area is in Aquifer Overlay because of where the Town Wells are. Town Ordinance states on pg. 12 #8, that the Board of Appeals will interpret district boundaries if in dispute. An approximate footage from wells to building proposed was about 200 ft. Jamie Carr does not agree with that measurement. No one has measured the distance and using the maps is only an approximate guess. Phil Killburn states the Aquifer Protection area is 4000 ft X 2000 ft.
Stephen Gauthier makes a motion that they accept the district as being in Overlay Protection. Dan Carubia seconds the motion. 4 members For. 1 Opposed. Dan Carubia, Beth Nee, Steve Gauthier and Chris Birchfield are in agreement. Woodrow Hartford is opposed.
Chairperson addresses Jamie Carr and advises that Ray Estabrook cannot issue a permit because of the vote. The Planning Board is no longer involved in decision of this use. To go further on this permit it must go before the Appeals Board. Nancy disputes the issue of what agricultural use is permitted by Town Ordinance.

5. Chris Birchfield introduces Libbys permit application for conditional use. There must be a public hearing with abutters and property owners within 500 ft. Mr. & Mrs. Libby present a drawing of their proposed parking area with turnaround and diagonal parking. Carlton Candage sites the two problems being septic problems and possible damage if parking is done over existing field, and, parking may not be feasible because of setbacks from adjoining property and also the snow coming off neighboring roofs in winter. Discussion followed of possible parking problems and solutions as well as egress needed for apartments and the use of the building. Specific mention made that retail craft sales would be allowed but parking for classes could be another problem. Code Enforcement Officer stated the property was in BC Zone. Decision made to notify abutting property owners of workshop meeting for the 13th and a site review by planning board members for 7:10 AM Friday Nov 7th.
6. Chairperson introduces next business as the C.N. Brown property. Exhibit A: Letter from president of C.N. Brown. Exhibit B: An Affidavit from maintenance supervisor. Exhibit C: Affidavit from operations manager with attachments setting forth efforts made by C.N. Brown to lease the Cornish site as well as general upkeep and maintenance. Exhibit D: Former operator of gas station at that site. Mr. Hastings introduces himself. Clarifies descriptions of affidavits and expenses as soil remediation and replacement of tanks to invest in retaining as a station not solely for remediation. Mr Hastings urges the Board to reconsider the June 13th letter that the grandfathered use had been abandoned.

"C.N. Brown may not have had an active dealer during that 18 month period but was attempting to find a good quality dealer to operate in a manner good for the Town and good for the Company. Owner (of C.N. Brown) was disappointed in the looks of the property and was looking for a new tenant. In the meantime the company has done everything necessary to keep that as a gas station. They have invested money in this station, they kept the pumps there, they've tested the pumps, they've kept the tanks tested, they've advertised regularly, they've done major work on the building, (which by the way was uniquely designed for no other purpose than to be run as a gasoline station) they've maintained it as a gasoline station, and it has not been abandoned as a gasoline station in any way whatsoever.

They do have a tenant that they do feel would be a good quality tenant. (here last week) they've invested in a lease for another 20 yrs. they have not abandoned the gas station business there except temporarily while they

attempted to locate new one but they've attempted to maintain a gas station, they haven't given up that use as defined as we read your ordinance, use is defined alternatively not only as a business that is occupied and I would say there is no other use or design or occupation of that building. It certainly has retained its unique design and characteristics. I would urge the Board to agree that when you read your definition of use it has carried forward for 50 yrs or more.

Chris thanks Mr Hastings and asks if there is anything else from the floor.

Steve Smith introduces himself. His interest is to find out what is going on with the Citgo Station as former operator for 20 yrs. He feels a Service Station if badly needed in every Town as Self Service and Convenience stores are taking over. Steve uses examples of elderly and handicapped that cant do the tasks for themselves.

Chairperson asks for a motion from the Board that the Ordinance proclued that this is not an allowable use being in the Historic District overlay/village district it is not allowable use because of 18 month nonconforming use and resumption prohibited in this district.

Steve Gauthier asks why are we making a motion on a motion we made 6 months ago? We made a statement per the Ordinance as listed in the book.

Chairperson stated.. Because they (C.N.Brown) asked us to treat their letter as a request for a vote from the Board to overturn Rays (CEOs) decision.

Question from floor asked about the position of the Appeals Board to overturn the CEO decision.

The Attorneys also state their confusion with the Towns procedure. The letter given to C.N.Brown says that it's from the Planning Board and then / in handwriting Appeals Board so he understood that.. Chairperson asks to see a copy of that letter.

Carlton Candage states that this is to be an administrative decision, which is the Planning Boards job.

The Board of Appeals deals with dimension. This has nothing to do with dimension, only to do with the Ordinance.

The Lawyer states as far as he knows that is a copy of the letter received by C.N.Brown.

The Chairperson states; NO. I'm sorry, I wrote this letter, this is not my hand writing and I do not know who Jim Piper is. This was not written by me.

The CEO shows a copy of the letter that was sent, Chris Birchfield agrees with CEO's copy. Chris : "But I didn't write that."

The lawyer asks if the letter is only from the Planning Board and the Chairperson agrees. "Only from the Planning Board."

Lawyer says he doesn't know who wrote it either. "We felt we were coming to a hearing because we were entitled to a hearing." Chairperson agrees.

Chairperson states that this is only an interpretation of the Ordinance and the Ordinance is the law of our Town.

Beth Nee adds that "We owe it to the citizens of our Town to stick by the Ordinance and use it the way it was meant to be used."

Chairperson asks for a show of hands as to whether the Board agrees with Ray (the CEO) and his determination that he would not give a permit for this use.

Chairperson reads the statement of fact prepared by herself and John Cleveland.

Carlton Candage states that they can only move in the direction provided by the Ordinance.

Mr. Hastings asks that it is his understanding that the Board has voted to accept the findings of fact by the Planning Board.

Chris Birchfield states; "That is correct."

Mr. Hastings: "Per your Ordinance is this something that the Appeals Board would change."

Chris Birchfield: "No the Appeals Board deals with dimensional problems of a lot with disregard to setback requirements."

Mr. Hastings: "If we should decided to Appeal this, it would not go to the Appeals Board."

Chris: "No. again we are following our Ordinance this is not a personal opinion we are working hard to go by the Ordinance as it was written and voted on by our Towns people."

Mr. Hastings: "I was led to believe that a similar circumstance request made by Metcalf Feed and Grain Company down here when I look at the map it seems to be in Aquifer Protection program, it was also my understanding that the location has previously been a lumber yard which had been closed for more than 18 months but Metcalf was allowed to reopen as a Feed and Grain Store."

Chris: "But it is in the Commercial Zone, which is the appropriate zone for that business and it was an application that is taken for any business."

Hastings: "So I was incorrect in reading that it is in aquifer protection zone."

Ceo states that is incorrect it is in commercial zone.

Discussion of accuracy of maps and scales of maps.

Steve Smith asks who tracks length of time businesses are closed/open and also asks if this decision is something the Planning Board wanted to happen.

November 3 1997 Planning Board Minutes Cont. Pg 5

Chris responds that it is not the job of the planning Board to check mark businesses it is just the job to uphold the Ordinance and housekeeping.

Mr. Hastings states that is all they have at this time.

Chris Birchfield asks for new business.

Code Enforcement Officer states that Curtis Dustin has requested a permit for a Pole Barn for livestock.

Discussion follows stating that the property is 1/2 in agricultural and 1/2 commercial zones. Board decides it is actually a P* assuming it is in Aquifer Protection because of proximity of Town Wells. Woody Hartford states that markers need to be put up along Well areas to determine aquifer protection areas.

Steve Gauthier motions to allow permitted use providing no commercial use/sales or breeding of livestock and determination of safety determined by the Water Co.

Beth Nee seconded and Vote was unanimous to accept.

Chairperson asks that the Ordinances be reviewed by Board members and any changes to Ordinance for next meeting.

2. Chris also asks that work be done for a Planning Board Budget.

3. The COHI lot also discussed as possible contract zoning.

4. Also discussed potential hazards left by owner of CoHi property and possible letter sent to owner for action to be taken.

Chris Birchfield makes a motion to adjourn. Motion Seconded.

Meeting adjourned at 8:20 PM.