

TOWN OF HANCOCK

Planning Board

Minutes of the 12 October 2022 meeting

Members present: Nick Branca, Scott Dyer, Douglas Kimmel, Ken Emerson & Ant Blasi

Others present: Don Baker, Sam DiBella, Donald LaGrange, Amy Foskett, Christopher Foskett, Sheldon Alley & Malachy Flynn

Call to Order at 6:30 PM

Doug Kimmel made a motion to make Ant Blasi a voting member of tonight's meeting because Debi Foster was not at meeting. Seconded by Nick Branca. Motion passed 4-0.

Item 1 on the agenda: Approval of Minutes

- a) 10 August 2022
- b) 14 September 2022

Nick Branca made a motion to defer approval to the end of the meeting because some board members had not yet read the September minutes and/or proposed revisions to the August minutes. Doug Kimmel seconded. Motion passed 5-0.

Item 2 on the agenda: Public Hearing-Patriot Auto

Discussion: Doug Kimmel recalled the history of the site and the concern about contamination of the underground lake beneath it when the Town Comprehensive Plan was developed. ~~Dead River operated there.~~ Noting that the property had been cleaned up and zoning enacted to protect the aquifer from new contamination, he expressed concern that an auto repair shop might leak oil and other pollutants. He also warned against the danger of "junkers" accumulating on the site.

Nick Branca said that automotive practices and precautions have improved dramatically over the decades to prevent such pollution. Applicant Chris Foskett assured that all waste was contained. An extended discussion of waste-removal practices ensued.

Item 3 on the agenda: Finding of Facts-Patriot Auto

1. The applicant is Mr. Christopher Foskett , who has demonstrated a legal interest in the property by providing a Warranty Deed recorded at the Hancock County Registry; Book 3331 Page 170.
2. The property is located at 445 Washington Jct. Road, in the Industrial Zone w/AP overlay, identified as Assessor's Tax Map 227, Lot 027 and contains 1.74 acres.

3. The owner of the property is Mr. Christopher Foskett.
4. The type of project is an Automotive Repair Shop. Primary use of the building is to be Automotive Repair and Service.
5. The application was determined to be complete on 14 Sept. 2022.
6. A public hearing was advertised in the 29 Sept. 2020 issue of The Ellsworth American, abutters were notified and the Planning Board held a public hearing on 12 Oct., 2022. After the public hearing, the Planning Board held a site plan review. Voting members present were Nick Branca, Scott Dyer, Doug Kimmel, Ken Emerson and Ant Blasi.

Nick Branca led the board through an Environmental Control Ordinance Site Plan Review:

1. Adequate provision has been made for off street parking and loading.

Automotive Repair Shops require 1 space for each regular employee, plus 1 space for every 50 sqft. of floor area used for service work.

Discussion: Christopher Foskett produced a sketch/map of the site showing 25 parking spaces and an additional three for employees. He estimated that 1,400 sqft. of service area would be devoted to auto repair.

Nick Branca moved that the criterion had been met, Scott Dyer seconded, motion carried 5-0.

2. Adequate provision has been made for traffic movement of all types, including pedestrian, into, out of, and within the proposed project. The Board shall consider traffic movement both on-site and off-site in making its determination under this criterion.

Traffic generated by an Automotive Repair Shop is minimal. Estimated trips per day are fewer than 10. The proposed road is 28' wide and allows for two vehicles to pass as well as any pedestrian traffic. The applicant is using an existing entrance to the property and the original entrance permit is on record with Town of Hancock and/or the Maine DOT.

Discussion: Doug Kimmel expressed hope that an ugly fence surrounding the site would be replaced. Chris Foskett said he thought replacing it with rocks would be more attractive (though later said he would not commit to that expense as a condition for approval of his application).

Nick Branca moved that the criterion had been met, Ant Blasi seconded, motion carried 5-0.

3. Any traffic increase attributable to the proposed project will not result in unreasonable congestion or unsafe conditions on a road in the vicinity of the proposed development.

Traffic generated by an Automotive Repair Shop is minimal. Estimated trips per day are fewer than 10.

Nick Branca moved that the criterion had been met, Scott Dyer seconded, motion carried 5-0.

4. That the proposed project will be built on soil types which are suitable to the nature of the project and that adequate provision has been made to avoid erosion, contamination of ground or surface waters, interference with adjacent land, overburdening of natural or artificial drainage systems, and/or any other adverse effects of inadequate drainage.

The site is located on an open lot with a gravel base with good drainage. The property has been built up to direct storm water runoff away from the building and Washington Jct. Road. Adequate steps have been taken to prevent contamination ground or surface water.

Discussion: Ken Emerson expressed concern that the applicant had not yet obtained a permit from the Maine DEP to operate an auto repair shop in an Aquifer Protection area. Don Baker explained that the retirement of a DEP official had delayed approval beyond the 14 days allowed by law.

Nick Branca moved that the criterion had been met, Scott Dyer seconded, motion carried 4-0. (One abstention for want of DEP confirmation.)

5. Adequate provision has been made to locate and design proposed outdoor display and/or storage areas so as to avoid any safety hazard to vehicular and pedestrian traffic on and off the site.

The applicant has obtained a permit from the Town of Hancock to construct a new sign. The sign application and permit are on file with the CEO.

Nick Branca moved that the criterion had been met, Scott Dyer seconded, motion carried 4-0. (One abstention.)

6. Adequate provision has been made to avoid any hazard to travel on public or private ways, or any glare or other nuisance to the use of adjoining public or private property.

There are no changes to existing street lights. Proposed safety lighting on the building above each garage bay door shines directly down and away from the roads.

Nick Branca moved that the criterion had been met, Scott Dyer seconded, motion carried 5-0.

7. Adequate provision has been made with regard to buffers, screening, landscaping, and the preservation and enhancement of significant natural features.

The existing topography of the site will not change. Existing ditches and curbs provide adequate buffers between the project and the roads. There are no changes to the property that affect the existing features. There are no significant natural features at the site.

Nick Branca moved that the criterion had been met, Scott Dyer seconded, motion carried 5-0.

8. Adequate provision has been made to avoid unreasonable adverse effects on the scenic or natural beauty of the area, aesthetics, historic sites, rare and irreplaceable natural areas, existing uses, air quality, water quality, or other natural resources within the town or neighboring towns.

No historic sites or rare and irreplaceable natural areas are identified at the site. The proposed use does not create an unreasonable adverse effect on the scenic or natural beauty of the area, air quality, water quality, or other natural resources.

Nick Branca moved that the criterion had been met, Scott Dyer seconded, motion carried 3-0. (Two board members abstained for want of DEP confirmation.)

9. Whenever a project is situated, in whole or in part, within two hundred fifty feet (250'), horizontal distance, of the normal high-water line of any water body or within two hundred fifty feet (250') horizontal distance, of the upland edge of a freshwater wetland, or within seventy five feet (75'), horizontal distance, of the normal high-water line of a stream, adequate provision has been made to conserve shoreland vegetation, visual points of access to waters as viewed from public facilities, and actual points of public access to waters.

Nick Branca moved that this criterion was not applicable, Scott Dyer seconded, motion carried 5-0.

10. Adequate provision has been made to prevent any significant adverse effect upon the public health, safety, or general welfare of the neighborhood or community.

The proposed use is not permitted in the Industrial Zone with Aquifer Protection overlay per the ECO. The applicant is in the process of obtaining a permit from the Maine DEP to operate an Automotive Repair Shop in an Aquifer Protection area. The applicant is not making changes that would affect the structure, traffic, safety, or health of the neighborhood or community.

Discussion: Doug Kimmel held that Patriot Auto should 1) contract with a waste removal company for waste disposal, 2) not include an auto junkyard on the site, and 3) submit to annual inspection by the CEO. Don Baker said he was willing to conduct such an inspection.

Nick Branca moved that the criterion had been met, Scott Dyer seconded, motion

carried 5-0.

11. Adequate provision has been made to prevent any undue adverse effect upon the property values of adjacent or nearby properties.

This is a commercial venture in an Industrial Zone. The site was previously used by Irving Oil Inc. as part of its propane filling and storage facility. Outdoor long-term storage is not permitted. Solid waste and trash left on the property will be promptly addressed by the applicant.

Nick Branca moved that the criterion had been met, Scott Dyer seconded, motion carried 5-0.

12. Adequate provision has been made to avoid any undue burden on municipal services.

The applicant has a dumpster on site to dispose of any solid waste to be generated at the site. The applicant agrees that any solid waste and trash left on the property will be promptly addressed. There are no other Town-supplied utilities at the site.

Nick Branca moved that the criterion had been met, Scott Dyer seconded, motion carried 5-0.

13. Adequate provision has been made to assure the proper operation of the proposed business(es) or activity(ies) on the site through the provision of adequate and appropriate utilities, drainage, water supply, sewage disposal, solid waste disposal, access, parking and loading, and other necessary site improvements.

Applicant shows existing utility at the site. There is an existing septic at the site but is not use. Surface water drainage is directed away from the building to the back and sides of the property. The driveway/entrance and access to the property were already existing on the property. Parking requirements are met.

Discussion: Mr. Foskett said that he cannot apply for an HE2-11 permit to access the septic tank until the Planning Board approves his application, and he will do so as soon as he receives its approval.

Nick Branca moved that the criterion had been met, Scott Dyer seconded, motion carried 5-0.

14. Adequate provision has been made to assure that the proposed development conforms in all respects with the provisions of this Ordinance.

Nick Branca moved that the criterion had been met, Scott Dyer seconded, motion carried 5-0, *but under three conditions, that Patriot Auto:*

- i. Develop a spill control containment process plan*
- ii. Not maintain a junkyard*
- iii. Submit to semi-annual inspection by the CEO.*

Nick Branca will notify the city of Ellsworth and the town of Lamoine of Hancock's approval of

the application.

Item 4 on the agenda: Site Plan Review Continued – Alley’s Equipment Sales

Discussion: Applicant Sheldon Alley submitted a letter requesting a waiver on the acreage requirement for Alley’s Equipment Sales because his lot is less than the required two acres. Evidently such a waiver is not necessary because the property was grandfathered in 1973 for all purposes.

Ant Basi made a motion to grant the waiver anyway, which was seconded by Nick Branca and carried 5-0.

Ken Emerson moved to schedule a public hearing on Nov. 9 2022 to give abutters the opportunity to comment. Ant Blasi seconded and the motion carried, 5-0.

The hearing would be followed by a Finding of Facts. In the meantime Mr. Alley can continue to conduct business and post for sale signs on his property, so long as he can remove his merchandise and signs if necessary.

Nick Branca will notify the city of Ellsworth and the town of Lamoine of Hancock’s approval of the application.

Item 5 on the agenda: Subdivision Application Continued – Hancock Country Village

Applicant Don LaGrange submitted an application and detailed map of his proposal to build five buildings on two lots. He included a list of abutters.

Nick Branca led the board through the subdivision review checklist.

Members found everything in order and made the following comments:

- The map’s substitution of 10-foot for 2-foot intervals between contour lines is permissible because more lines would make the map less legible.
- Add 87,120 sqft. to the map’s decription of Lot 2A.
- Indicate the size of utility poles.
- Update the list of abutters to reflect the recent sale of the adjacent Trundy property.

A Finding of Facts for Hancock Country Village will be scheduled for Nov. 11 2022.

Nick Branco made a motion to waive a public hearing, seconded by Scott Dyer, which carried 5-0.

Item 6 on the agenda: Subdivision Application Review– Coastal Estates/Coastal Storage

Since the application is incomplete and the applicant did not appear, Nick Branca made a motion to strike the application from the agenda. The motion carried 5-0.

Item 7 on the agenda: Discuss Job Description for Secretary Job Position Continued:

Don Baker reported that the Town had received two applications, which he will email to Planning Board members.

Item 8 on the agenda: CEO Report

Don Baker reported that he had issued 3 plumbing and 5 building permits, and collected \$1,169 in fees. Among other news, he:

- Issued a junkyard violation on Austin Road.
- Received a complaint about a community living facility and told the complainant there was nothing the Town could do because it was protected under the Americans with Disability Act.
- Discovered and is correcting inconsistencies in the application fees the Town is charging for residential and commercial/industrial solar panels.

After the Agenda

Board members discussed briefly the proposed Harbors and Waters Ordinance they had been asked to review on short notice. Nick Branca made a motion, seconded by Ant Blasi, to table consideration of the proposal until members had had time to study and discuss it thoroughly. The motion carried 5-0.

It was agreed that in addition to notifying the Select Board of this, Nick Branca would advise it that the ordinance should not be approved by the Select Board alone but must be debated and voted on at a public meeting.

Approval of Minutes

Doug Kimmel made a motion to approve the August 11 minutes as revised that was carried 4-0, with one abstention.

Nick Branca made a motion to table approval of the September 14 minutes until Debi Foster can attend a meeting and can cast her vote. Seconded by Doug Kimmel, the motion carried 5-0.

Doug Kimmel made a motion at 9:00pm to adjourn meeting, seconded by Nick Branca, which carried 5-0.

Next meeting – Wednesday, November 9, 2022, at 6:30pm

Respectfully submitted,

Ken Emerson

(in Debi Foster's absence)