**PLANNING BOARD MEETING- SEPTEMBER 21, 2022**

The NB Planning Board held their monthly meeting starting at 7:00PM at the Police Station conference room. At 7:15PM, the continuation of special permit hearing for Paul Paradise started. In attendance were Planning Board members Bill King, John Tripp, John Turner, Brandon Avery, Michelle Petraitis and Clerk, Kimberly Bent. Attending members from the public were Mona Castonguay, Matt Defosse, Gloria Turner, Dean St. Laurent, Tina Lindsey, David Shea, Ellen Hall, Shirley Whitney, Dick Whitney, Tracy Cormier, Mike Purda, Patrick Kiritsy, Patrick Gustafson, Ross Ackerman, Nancy Paradis, Jayson Belder, Sarah Garrow, Danielle Gebo, Mark Sepuka, Christine Sepuka, Phil Skinnel, Sonja Craig, Paul Paradis, Gregory Reed, Jonathan Viner, Christin Palmer, Eric Josephson, Traci Brearley and Robert Banthin.

Chair King called the meeting to order at 7PM at the Police Station Conference Room. He asked for a motion to approve the minutes from August 17, 2022 meeting, motioned by John Tripp, seconded by John Turner, and unanimously approved by all members.

Mr. Robert Murphy presented an ANR plan for 22 Brookfield Road and Walker Road on behalf of Michael D. Cocaine to make two ANR lots. Both lots meet zoning requirements: Lot 1 - 2.96 acres consisting of existing house/barns and Lot 2 - 2.00 acres without any buildings. Both have at least 250 feet of frontage. Survey plan submitted was done by Land Planning, Inc. Michelle Petraitis made a motion to accept the ANR plan as presented, seconded by John Turner, and unanimously approved by all members. The Board signed the mylar copy and three copies of survey plan, the clerk received check for $150 with Form A.

**MAIL:**

The Planning Board received a letter from town resident Sonja Craig expressing her opinion on not being in favor of Mr. Paradis receiving a special permit for his proposed gun/ammunition store. Chair King read the letter.

W. King received an electronic copy of Paradis plan from Joe Levesque, PLS with final, updated plan for 78 Elm Street known as Paradis Firearms and Repair.

Town of Spencer- Notice for special meeting on amending zoning bylaw regarding solar projects on Sept. 20, 2022.

The Board received a letter from Atty. P. Berthiaume for MGL, c.61A, ROFR release request for 24 Hillsville Road lots whose owner is David Kitteridge. There are four lots in c.61A on Hillsville Rd. and one lot not in c.61A on Ryan Road which are part this request. The Town would have to come up with $310,000 to meet the buyer’s price agreement for this land. Michelle Petraitis made a motion to not exercise the town’s ROFR on this property, seconded by John Tripp and unanimously approved by all members. Chair King will write the letter to the BOS.

**INVOICES:**

An invoice from Stonebridge Press for $117.60 for public hearing advertising in the Spencer New Leader 7/29 & 8/5/2022 for Paradis (78 Elm Street) proposal.

An invoice from CMRPC for $720.00 for the completion of North Brookfield MP maps.

An invoice from John Turner for $89.94 for a Zoom account he used for Master Plan Committee meetings this year.

All invoices were approved and signed by all members of Board.

It being 7:15PM, Chair King asked for a motion to suspend regular meeting and open the public hearing. Motion made by John Tuner, seconded by John Tripp, and unanimously approved by all members.

**PUBLIC HEARING CONTINUATION FOR P. PARADIS**

W. King called the continued public hearing to order at 7:15PM and reviewed the rules for public participation. Attendees with new information, new questions or anything needing clarification will be heard.

Tina Lindsey asked if the board understood the impact a small business has on the town? She stated that people come to town to shop at Paradis Firearms while they are in town they will also shop at other businesses.

Mona Castonguay, as an abutter wanted the Board and public to know that they (abutters) are not against Paradis Firearms and do not want Paradis Firearms to leave town. They do not want such a retail store in their residential neighborhood. There are Main St. and BG2 district properties that Mr. Paradis could move to.

Jonathan Viner stated that this building is a permissible use in the Zoning Bylaw and the Board should keep that in mind when casting their vote. This also represents an investment in his property and it allows him to work from home. The updated plans were provided showing what has changed from the last hearing, including parking and fence locations.

Phil Skinnel asked Mr. Viner a few questions about the plans. Is the building still 20x40 ? Yes. Are you going to have water and sewer hook up? No.

Sonja Craig asked if this special permit is granted, how do we know he won’t keep expanding as he has done on his property already. Chair King explained that if a special permit is granted, it will have requirements that Mr. Paradis would have to meet such as hours of operation, parking, fencing, and if he needs to make any changes, he has to come back to the Planning Board for another public hearing. This special permit would only be issued to Mr. Paradis and is not transferrable. Sonja also asked about his property as it is currently. She had a concern that he has been doing business without correct permit, added onto his store without a building permit and expanded his business without a proper retail permit. Chair King and Michelle Petraitis assured her that the Board has all this information and will take that into consideration when making their decision, but it will not be addressed at the hearing.

Patrick Kiritsy asked about Massachusetts state law that requires the owner to have a license to open a firearms retail store and it cannot be in a residential zone, in a residence or in a building attached to a residence; he asked what address did he use with the state to get a permit and does he have a permit through the town? Chair King explained that Mr. Paradis has received several letters from the Town Zoning Officer on this matter and depending on the vote outcome from the reconvened Planning Board meeting, his business status will likely change.

Mr. Viner spoke and expressed that Mr. Paradis, and his store are properly permitted with the appropriate authorities, it has a legal address of 78B Elm Street, and with the nature of this business it would not be able to operate without the correct permits.

Ellen Hall read a Massachusetts court decision that requires all licensed gun activities to take place in a commercial zone location that is not attached to a residence of the license holder. In Massachusetts, it is required that all firearms businesses be in a commercial location, not in a residential area.

Ellen asked how has his business been occurring? Michelle Petraitis explained, that the Board is not addressing tonight what has happened in the past. This Board’s only decision is about the special permit for retail gun/ammunition sales. Michelle expressed that the Board appreciates all the information provided from both sides and all will considered in the Board’s decision.

Jonathan Viner wanted to clarify that the reason for the public hearing is to discuss the possible allowance of this use on this property. Mr. Paradis will have to adhere to state building code and all the laws that pertain to this type of business.

Ross Ackerman wanted to express his opinion on why would someone lease a building when financially and the convenience of having a store on your property makes more sense. He also expressed the there are FFL’s in residential areas in the state of Massachusetts, whether it is by special permit or ZBA. He stated that he was not at the last meeting, but he feels like this is a 2nd Amendment issue.

Patrick Kiritsy expressed that the folks opposing this are opposing this because of it being in a residential neighborhood and they are not against guns or the 2nd Amendment. No one is restricting anyone’s rights to bare arms or own a gun store in town. They just want the store to be in a commercially zoned area.

There being no further new comments, John Turner motioned to close the public hearing and reconvene the Planning Board meeting, seconded by Michelle Petraitis and unanimously approved by all members.

Chair King went over a summary of information for the Paradis special permit request.

1. Proposed use for gun/ammo sales qualifies as a permitted use after a special permit is issued by the Planning Board (if so voted) following the public hearing process.
2. The proposed use does not create any new non-conformities.
3. From 2003 court ruling of Sullivan versus Mass. State Police, one can reasonably conclude that Paradis proposal is contrary to State law.
4. At least four abutters and neighbors have stated that the proposal is detrimental to the residential neighborhood and the issues include car headlights, product delivery vehicles, noise, traffic, and hours of operation.

There being no further Board discussion, John Tripp made a motion to move to the special permit vote and have it be a paper vote, seconded by John Turner and unanimously approved by all members. The Board vote was 0 in favor and 5 not in favor.

Jonathan Viner asked to discuss the Sullivan case and how it is applicable to Paradis before the vote. Mr. King permitted the question. He explained that the Town Pembroke denied a renewal of the Sullivan firearms dealer permit for having the business in a garage attached to his residence.

In summary, the Planning Board considered the unique circumstances and features of the Paradis property in making their decision. If the property was larger, so that the retail building and parking was not visible from the abutters’ backyards or it could be effectively screened, a different vote may have been realized.

Mr. Viner asked what other information the Board took into consideration when making this decision that was not read into record. Chair King explained that the Board had letters from the building inspector and zoning officer that Mr. Paradis had received.

**OLD BUSINESS:**

John Turner gave an update on the Master Plan status. The Master Plan is complete except for State approval of the Open Space/Recreation section which is in its final submittal stage with the assistance of CMRPC. Full approval is expected by year end. The Board discussed that John should print 30 OSRPs and 25 Master Plans.

Brandon Avery attended the quarterly CMRPC meeting via Zoom. The meeting when over the long-range transportation plan for 2050. The meeting went over how to prioritize transportation issues and obtain regional ideas. He said two of the big things he will keep an eye on are the continuation of Route 49 north to Route 2 and east/west commuter rail beyond Worcester.

There being no other business, Michelle Petraitis made a motion to adjourn, seconded by John Turner and unanimously approved by all members.

Next Meeting is October 19, 2022.

Minutes consist of four pages.

Completed by Clerk, Kimberly Bent