

1 SOUTH BERWICK PLANNING BOARD  
2 Regular Meeting Minutes  
3 Date: January 18, 2023  
4

5 **PLEDGE OF ALLEGIANCE**  
6

7 **REGULAR MEETING**

8 Mr. Zinser opened the regular Planning Board Meeting at 7:05pm.  
9

10 **ROLL CALL:**

11 In-Person: Planning Board Members; Greg Zinser, William Cole, Zachariah Nobel, Alternate Christine Prunier;  
12 Jenifer McCabe, CEO & Interim Town Planner; Amy Aiguier, Administrative Assistant  
13 Via Zoom: None. Absent: Planning Board Members Hershey Hirschkop, Burnell Bailey  
14

15 **PUBLIC AUDIENCE:**

16 In-Person: Sam Flinkstrom and Roxanne Poulin, Applicants; Gregory P. Braun, Esq. Representing MSP-22-007  
17 Via Zoom: Lee Jay Feldman with SMPDC (3<sup>rd</sup> Party Reviewer), Town of South Berwick Attorney, Phil Saucier,  
18 Town Councilors Jeff Minihan and Jessica Cyr, Pat Robinson, Deb Ganster, Rick P, Bob Hamel, Tess, Anthony  
19 Pallozzi  
20

21 **BOARD COMMENTS:** None  
22

23 **PUBLIC COMMENTS:** None  
24

25 **MEETING MINUTES APPROVED:**

26 Mr. Nobel motioned to accept the 1/4/2022 Planning Board meeting minutes as presented. Mr. Cole seconded  
27 the motion.

28 **VOTE: 4-0-0 APPROVED**

29 **Approve:** Greg Zinser, Bill Cole, Zach Nobel, Christine Prunier. **Deny:** None, **Abstain:** None  
30

31 **NEW BUSINESS:**

32 Ordinance Amendment/Discussion on Site Plan Submission  
33 Mr. Zinser tabled until a later date.  
34

35 **BOARD COMMENTS:** None  
36

37 **OLD BUSINESS:**

38 MSP #22-007 Caponera LLC, 406 Main Street Change in Use, New Restaurant & Beer Garden 3<sup>rd</sup> Party  
39 Review.  
40

41 Ms. Prunier, Planning Board Alternate and property owner of 408 Main Street, South Berwick, requested that  
42 she be recused from the discussion as she is a direct abutter to 406 Main Street.  
43

44 Mr. Cole motioned to recuse Ms. Prunier from discussion of MSP #22-007, Caponera, LLC due to being a direct  
45 abutter to 406 Main Street. Mr. Nobel seconded the motion.

46 **VOTE: 3-0-1 APPROVED**

47 **Approve:** Greg Zinser, Bill Cole, Zach Nobel

48 **Deny:** None, **Abstain:** Christine Prunier

49 Lee Jay Feldman with Southern Maine Planning and Development addressed the Planning Board and audience  
50 with his finalized review of the 3<sup>rd</sup> party review of MSP #22-007, Caponera LLC, 406 Main Street. Mr.  
51 Feldman read the review via Zoom in completeness.

52

53 **BOARD COMMENTS:**

54 Mr. Zinser asked if the applicant would need to obtain any other specific type of permit for outside  
55 entertainment due to the applicants plan for outdoor seating. Mrs. McCabe, South Berwick Code Enforcement  
56 Officer stated the applicants would need to apply for a Special Amusement Permit through the Town Council.

57

58 Mr. Nobel suggested the applicants obtain a trip generation analysis for pedestrian flow to support the  
59 environment and local residence in the area. Mr. Zinser stated that could be discussed as the application moves  
60 forward.

61

62 Gregory P. Braun, Esq. representing the applicants addressed the Planning Board.

63

64 Mr. Braun stated he is representing the applicants to facilitate the process of the Major Site Plan Application and  
65 the 3<sup>rd</sup> Party Review by Lee Jay Feldman. Mr. Braun questioned Chapter 140-24, Parking Variances and  
66 Waivers. Mr. Braun questioned the interpretation of the ordinance. Mr. Braun suggested that the Planning  
67 Board may have the authority to waive a parking variance. The parking waiver requested by the applicants must  
68 be addressed before the application can effectively move forward. He stated the 3<sup>rd</sup> Party Reviewer indicated  
69 that several waivers requested in the application cannot be waived and he suggested a different interpretation by  
70 himself and the applicants.

71

72 Phil Saucier, The Town of South Berwick's Attorney, suggested the parking waiver request be tabled until he  
73 has an opportunity to review the ordinances in full and what the ordinances indicate. The determination of this  
74 waiver is significant and must be established before moving forward for both the Town Planning Board and the  
75 applicants at this time.

76

77 Mr. Braun stated the applicants are looking for a path forward and a list of the items they need to address to  
78 move forward.

79

80 Mr. Zinser stated there are numerous amounts of permitting issues that need to be worked out and addressed  
81 before moving forward.

82

83 The requested parking waiver and the confusion of the applicants in the Planning Boards action on that waiver  
84 needs to be reviewed and addressed and which there is some apparent grey area. There is an erosion and  
85 sedimentation issue that needs to be addressed and there's a demolition permit and building permit to be  
86 addressed. Moving forward a FEMA, Flood Plain permit or other requirement, a DEP Permit and Shoreland  
87 Zone Permit will need to be addressed. The numerous waivers requested by the applicants and the seating and  
88 trip /activity studies will need to be indicated and cleaned up if the application is to move forward.

89

90 Mr. Braun stated the applicants are looking for the previous issued stop-work-order be pulled. Mr. Zinser stated  
91 the Planning Board does not have authorization to pull a stop-work-order. Only the Town's CEO has that  
92 authority.

93

94 Mrs. McCabe stated that the applicants did receive permission to work on the building to safely secure it only.  
95 But anything over that type of work, that is part of the stop-work-order could not be pulled due to the applicants  
96 needing the Planning Board approval for their site plan before they are allowed to continue work on the site.

97

98 Mr. Nobel motioned to table MSP #22-007 Caponera LLC 406 Main Street, until the applicant and the Town  
99 Lawyer, Phil Saucier and the Planning Board can determine the issues of the various waivers and permit issues  
100 discussed. Mr. Cole seconded the motion.

101 **VOTE: 3-0-1 APPROVED**

102 **Approve:** Greg Zinser, Bill Cole, Zach Nobel

103 **Deny:** None, **Abstain:** Christine Prunier

104

105 **PUBLIC COMMENTS:** None

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107 **BOARD MEMBER COMMENTS:** None

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109 **ADJOURNMENT:**

110 Mr. Nobel moved to adjourn the meeting at 8:44pm. Mr. Cole seconded the motion.

111 **VOTE: 3-0-1. APPROVED**

112 **Approve:** Greg Zinser, Bill Cole, Zachariah Nobel. **Deny:** None **Abstain:** Christine Prunier

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118 Attested By: \_\_\_\_\_