

TOWN OF THORNTON PLANNING BOARD

Approved on: May 20, 2021
PB Initials: SB
Rec'd by Town Clerk on: 5/28/21
Town Clerk Initials: dym

Planning Board Meeting Minutes Thursday, April 15, 2021

NOTE: In light of the COVID-19 pandemic and pursuant to Emergency Order #23/Executive Order 2020-04 as amended, "Temporary modification of municipal and local government statutory requirements," this meeting was limited in scope and was conducted via teleconference with a base at the Town Offices, 16 Merrill Access Road, Thornton, NH.

CALL TO ORDER – PLEDGE OF ALLEGIANCE:

Chairman Steven Babin called the meeting to order at 6:04 p.m.

ROLL CALL:

Members present at Town Hall: Steven Babin, Chairman; Peter Laufenberg; Donna O'Donnell; Kerrin Randall; Assistant to the Planning Board; David Rivers; Karen Waters

Members present via call-in: Frank Freeman, Vice-Chairman; Nancy Decoteau (exited at 8:18 p.m.); Kathy Menici, Planning Director, Town of Thornton (exited at 8:30 p.m.)

Members not present: None

Alternates present at Town Hall: Cynthia Schofield, Jack Gaites

Alternates absent: Gloria Kimball

Others present via call-in (partial names are as they appeared via Zoom):

amc; Annie Ropeik; Brett Owings; Briana Russin; Cher Duffield; Elaine Scholtz; Francis Parisi; Harold Johnson; John; Jonathan Grebow; jp0987@live.com; js; Juliet Duffield; Marcia King; Michael Sununu; Mike Plotnick; Ron; Sally Davis; Steven; Tim Smith; Timkingston

Others present at Town Hall: Jack McCormack; Christopher Savage; Christina Savage; Tom Duffield; Shirley Benton; Karl Warnick; Byron O'Donnell, II; Byron O'Donnell III; Chad Stocker, Owl's Nest; Jon Warzocha, Horizons Engineering

APPROVAL OF MINUTES:

Upon distribution and review of the meeting minutes of March 18, 2021, the members took the following action:

MOTION: "To accept and approve the Minutes of the Thursday, March 18, 2021 meeting with proposed changes."

Motion: D. O'Donnell

Second: K. Waters

Discussion: Mr. Babin reviewed the following proposed changes:

Page 3: RE: Vertex Fire Concerns

- Mr. Parisi stated most of the electronics are now on the antennae, and that there is an extensive lightning grounding system in place in the event of a lightning strike.

Page 4: RE: Vertex State Permit Applications

- He stated he has never filed for state permits prior to approval at the local level. ~~move it and change everything. Never filed before we get through local.~~

Page 5: RE: Vertex Continuation

- *Mr. Parisi asked what he would need to provide for to help with the motion.*

Ms. Decoteau stated she was not present at the meeting, and the minutes state she was.

Roll Call Vote: 5 YES - 0 NO - 1 ABSTAIN

Motion passes.

Mr. Laufenberg asked that line numbers be added to future meeting minutes for Board review. Ms. Randall stated she will add line numbers.

PRELIMINARY BUSINESS:

1. Resignation

Mr. Babin stated that Julie Piehn has submitted a letter of resignation as an alternate from the Board. Mr. Babin stated he will honor her wishes and asked that a letter be sent to Ms. Piehn to thank her for her service to the Board.

2. Appointment of Board Position

Mr. Babin stated because of Town elections, there is an open seat on the Board. This member will serve in an interim position until the next Town election. Mr. Babin stated he reached out to the alternates, and David Rivers has expressed interest.

MOTION: "To appoint David Rivers as an interim seated member of the Planning Board until the next Town election."

Motion: P. Laufenberg

Second: K. Waters

Discussion: None

Roll Call Vote: 6 YES - 0 NO - 0 ABSTAIN

Motion passes.

Mr. Babin stated there is an alternate position open on the Board and Jack Gaites has expressed interest.

MOTION: "To appoint Jack Gaites as an alternate member of the Planning Board."

Motion: P. Laufenberg

Second: D. O'Donnell

Discussion: None

Roll Call Vote: 7 YES - 0 NO - 0 ABSTAIN

Motion passes.

Mr. Babin and Mr. Laufenberg administered the oath of office to Cynthia Schofield to renew her position as an alternate to the Planning Board. Mr. Freeman authorized Ms. O'Donnell to sign in his place as vice-chair.

COMMUNICATIONS:

Mr. Babin stated he received some communications on a closed application and that was forwarded to the Board.

REPORTS:

Ms. Menici stated all Planner reports and Keach-Nordstrom reports are included in the Board's packets with applications.

UNFINISHED BUSINESS: None

HEARINGS:

1. Continuation of APPLICATION– Site Plan Review; Vertex Tower Assets, LLC as agent for Michael C. Sununu and James G. Sununu, Trustees of the SMA Realty Trust, Upper Mad River Road. [Map 17 Lot 5-21].

Mr. Babin stated the Board will be deliberating the proposed site plan. Mr. Babin asked for comments from the Board.

Mr. Freeman acknowledged all the information provided by the applicant, and thanked Mr. Parisi for presenting it. He stated that he recognizes there are deficiencies in cellular coverage along Route 49, but because the gap in coverage is limited to a small area, he does not believe that a major structure is warranted or is appropriate. Mr. Freeman asked if a less impactful option could be found instead of building a facility.

Ms. O'Donnell stated she concurs with Mr. Freeman. She stated she does not feel that the benefits of the tower outweigh the impact on the property and community.

Mr. Rivers stated it bothers him that a variance was granted for a lattice style tower. He stated a tower does not seem appropriate; the issue of the style of tower has been settled, but he does not agree with it.

Ms. Waters stated she has no comment.

Mr. Laufenberg stated he had no comment.

Mr. Babin stated he has reviewed the information provided by the applicant thoroughly and thanked the applicant for their submissions; an extensive amount of info was provided. Mr. Babin stated it is his understanding that the Planning Board must act on the application as there is a timeline that is in play.

Mr. Babin stated the basis of an approval or denial from the Board needs to be based on the items that are before them. Mr. Babin stated there are two (2) concerns that he wanted to bring to the Board's attention that would qualify as a basis for denial; life safety and environmental impact.

Mr. Babin stated the life safety issue stems from the proposed driveway, which will have areas that are at a 20% grade. Safety vehicles will not be able to respond to the site in the event of an emergency; this statement has been made by the applicant, public safety officials, and members of the public.

Mr. Babin stated the Town Site Plan Regulations state:

'Storm water run off generated from a developed property shall be detained such that post development peak flows at the property line for the 2 and 10 years storm event in a pre-developed condition.'

Mr. Babin stated the plan proposed would be violating this regulation on a yearly basis due to weather. Mr. Babin stated the site plan proposed has been designed for a 25-year storm event, but there have been at least two (2) 100-year storm events in the last 15 years. Mr. Babin stated there has been evidence provided to the Board that would suggest the Mad River watershed will be impacted from excessive runoff from the proposed tower site.

Mr. Babin stated the life safety issue, and the environmental issue were the only two (2) areas that did not infringe on the other areas of concern that have been decided by the Zoning Board of Adjustment. He stated a motion must be made regarding the application.

MOTION: "To deny the Site Plan submitted by Vertex Tower Assets, LLC as agent for Michael C. Sununu and James G. Sununu, Trustees of the SMA Realty Trust, Upper Mad River Road [Map 17 Lot 5-21] due to life safety concerns and environmental impact concerns."

Motion: D. O'Donnell

Second: F. Freeman

Discussion: Ms. Decoteau asked if the Air National Guard had responded to the letter of notification sent

by the Board. Mr. Babin stated the return receipt was received by the Board, and a phone message acknowledging receipt of the letter was given.

Ms. Decoteau asked if the fire suppression specs on the utility cabinets that will be at the facility were provided by the applicant. Mr. Babin stated notes on the cabinets were provided by the applicant.

Mr. Rivers stated the Board has received several letters opposition from people who will be affected if the facility is built; the volume and depth of those letters is thorough and shows that residents are opposed.

Mr. Freeman stated a tremendous number of people have given input on this tower. He stated he can't recall any Thornton resident coming out with any strength saying they approve.

Mr. Laufenberg confirmed that a 'Yes' vote was in favor of denying the application and a 'No' vote was to not deny the application.

Mr. Babin stated Mr. Laufenberg was correct.

Roll Call Vote: 5 YES - 1 NO - 1 ABSTAIN

Motion passes.

Mr. Babin stated the site plan application has been denied, and a letter of decision will be sent to the applicant within five (5) business days.

2. Continuation of APPLICATION/PUBLIC HEARING – Site Plan Review: Sunrise Nanos - J, K, L; Marc Burnell as agent for LCJ Holdings, LLC, Lafayette Road. [Map 16 Lot 1-7SROC]

Mr. Warzocha of Horizons Engineering and Mr. Stocker with Owl's Nest entered the meeting.

Mr. Babin stated there are still issues with submissions to the Board; new plans were submitted two (2) days before this meeting. Mr. Warzocha stated that he understands the Board's frustration, and this should be the last time a late submission is sent.

The Board reviewed the plans and the reports from Ms. Menici and Mr. Keach.

Discussion ensued regarding the state of the Land Dedication agreement. Mr. Babin stated it is actively being reviewed by both parties.

Mr. Laufenberg asked if there were any outstanding State permits needed. Mr. Warzocha stated yes; sub-surface approval, an updated AOT, and an easement for utilities between Owl's Nests properties.

MOTION: "To approve the Site Plan: Sunrise Nanos - J, K, L; Marc Burnell as agent for LCJ Holdings, LLC, Lafayette Road [Map 16 Lot 1-7SROC] with the following conditions:

- a. All necessary state and federal permits, including by not limited to the following:

- Amendment to previously issued NH-DES – Alteration of Terrain permit.
- NH-DES – Subdivision Approval for Units J, K, and L.
- NH-DES – Approval for Construction for proposed septic for units J, K, and L.
- NH-DES – Approval for Operation for proposed septic for units J, K, and L (prior to occupancy of proposed units).

- b. Satisfactory review and comment for the following:

- Review and approval by Planning Board legal counsel of easement for proposed septic that extends onto the parcel identified as Map 16 Lot 1-7. To be executed and recorded only upon conveyance of one or both parcels.
- Review and comment by the Fire Chief regarding the proposal.

c. The following to be added to the plan:

- All permit numbers to be added to the plan, including Approval for Operation.
- All waivers granted to be noted on the plan.
- Note to be added to the plan regarding landscaping and lighting plans.
- Note to be added to the plan regarding snow storage.
- Note to be added to the plan: "This parcel, including the previously approved plan, is no longer a condominium but a rental property. Condominium approval will be required before the sale of any of the units on this parcel."

d. Notice to be recorded at the Grafton County Registry of Deeds stating that the condominium approval is abandoned and new condominium approval will be required before the sale of any units on this parcel. Such notice is to be prepared by the applicant for review and approval by the Planning Board's legal counsel."

Motion: F. Freeman

Second: D. O'Donnell

Discussion: None

Roll Call Vote: 6 YES - 0 NO - 1 ABSTAIN

Motion passes.

Mr. Babin stated the site plan application has been approved with conditions, and a letter of decision will be sent to the applicant within five (5) business days.

3. Continuation of APPLICATION/PUBLIC HEARING – Minor Site Plan Review: Slice Restaurant; Marc Burnell as agent for LCJ Holdings, LLC, Lafayette Road. [Map 16 Lot 1-8]

Ms. Menici stated this application has been continued for five (5) months and stated if allowed to be continued again, abutters should be renoticed.

Mr. Warzocha asked that the application be continued to the May meeting, and that abutters be renoticed.

MOTION: "To continue the APPLICATION/PUBLIC HEARING – Minor Site Plan Review: Slice Restaurant; Marc Burnell as agent for LCJ Holdings, LLC, Lafayette Road. [Map 16 Lot 1-8] to the May 20, 2021 meeting."

Motion: P. Laufenberg

Second: D. O'Donnell

Discussion: None

Roll Call Vote: 7 YES - 0 NO - 0 ABSTAIN

Motion passes.

4. APPLICATION/PUBLIC HEARING – Site Plan Review: Old Saw Mill Condominium; Thomas Duffield as agent for Shirley and Jerel Benton, Old Sawmill Road. [Map 11 Lot 1-33]

Jack McCormack stated he was helping the Bentons with their submission; the originally submitted plan for a condominium subdivision has been amended to rental units.

Mr. Babin thanked the applicant for their submission, as they have been before the board multiple times for the same project.

Tom Duffield stated there would be 21, two (2) family units built; the plan presented shows how the units would be laid out with the boundaries marked. He stated the plans were redone to accommodate the wetlands, and that a road had been built already to accommodate the future units. Mr. Duffield stated there are nine (9) cluster areas planned, each with their own septic and common well; a state driveway permit has also been approved. He stated the 7–8-acre wetland property will have a walking path around it that will be made of packed dirt. Mr. Duffield stated there is already a fire pond and dry hydrant on site, and that he has been in touch with the fire chief.

Mr. Rivers asked if the units were going to be 'cookie cutter' houses. Mr. Duffield stated there are two (2) types of models that will be used, based on where the buildings are located; a cottage style and a block style.

Ms. Menici stated she is concerned with accepting the submitted application as substantially complete, as there are several items still missing from the site plan checklist. She stated she would be comfortable as accepting the application as partially complete to have a meaningful discussion on the proposed project.

A lengthy discussion ensued regarding missing items from the site plan checklist. Mr. Duffield stated the items missing can easily be obtained and added to the plans for further discussion at the next meeting in May.

Mr. Babin asked for any public comment on the application.

Carl Warnick, an abutter, asked what the load limits on the bridge on the property were and asked if the Town had any rights over it. Mr. Babin stated Old Saw Mill Road is a private road, so the Town and Board are limited in their oversight of bridge.

Mr. Warnick stated he saw the plans earlier in the day, and asked where the drainage would be, as it appears to be behind his house. Mr. Duffield stated the drainage has been moved away from the area near Mr. Warnick's house and moved back towards a cul-de-sac.

Mr. Warnick asked how the fire pond would be recharged. Mr. Duffield stated there is a spring that will recharge the pond.

Mr. Freeman asked how this project was going to be approved as rental units, as it is his understanding that only one (1) residential unit per lot is allowed. Mr. McCormack stated the units were to be constructed in a cluster development, which is permissible.

A lengthy discussion ensued, the result of which clarified that the cluster development that was being proposed was permissible in the Town Zoning Ordinance.

Ms. Menici stated she will speak with legal counsel for clarification on the cluster development, and she will share this information with the applicant.

MOTION: "To accept the Site Plan Review: Old Saw Mill Condominium; Thomas Duffield as agent for Shirley and Jerel Benton, Old Sawmill Road [Map 11 Lot 1-33] as substantially complete, given the list of missing item notes from the Town Planner."

Motion: P. Laufenberg

Second: D. O'Donnell

Discussion: None

Roll Call Vote: 6 YES - 1 NO - 0 ABSTAIN

Motion passes.

Mr. Babin opened the public hearing at 7:32 p.m.

Briana Russin, an abutter, stated she was concerned with how close the proposed walking path would be to her property, as she borders the wetlands. Ms. Russin asked if the path would be lit. Jerel Benton, subject property owner, stated that the walking path will not be within 10-15 feet of her property and will not be lit. Mr. Benton stated the path will be gravel, dirt packed and approximately 4-6 feet wide.

Ms. Russin asked if debris that is piled near her property will be cleared to accommodate the walking path. Mr. Benton stated the debris is a storage shed, and it will be cleared. He stated the path will be for walking only; no motorized vehicles allowed. Ms. Russin thanked him for the information.

Mr. Babin asked for any other public comment; there being none, Mr. Babin closed the public meeting at 7:37 p.m.

Mr. Rivers stated that the fire chief has submitted a letter regarding the project and stated that he would advise a phased building approach. Mr. Benton stated he agrees with the phased building approach and will begin the project with 12 units first.

Mr. Babin asked what a reasonable timeline request for completion would be. Mr. Benton stated five (5) years would be a reasonable timeframe.

MOTION: "To continue the APPLICATION Site Plan Review: Old Saw Mill Condominium; Thomas Duffield as agent for Shirley and Jerel Benton, Old Sawmill Road [Map 11 Lot 1-33] to the May 20, 2021 meeting."

Motion: D. O'Donnell

Second: K. Waters

Discussion: None

Roll Call Vote: 6 YES - 0 NO - 1 ABSTAIN

Motion passes.

OTHER BUSINESS:

1. Preliminary Consultation – Christopher and Christina Savage to discuss a Boundary Line Adjustment between Tax Map 2, Lot 6-8, and Lot 6-3.

Christopher Savage presented a proposed Boundary Line Adjustment for property that he will be purchasing. He stated he wanted to ensure that what he is proposing is permissible once he purchases the property. Mr. Savage stated the proposed plan will allow for a driveway to be put in that will access the newly formed lot. He stated Roma Road, where the lots are, is a private road and there will still be 130 feet of frontage.

The Board reviewed the plans and agreed that the proposed plan would work, should they wish to pursue the Boundary Line Adjustment.

Mr. Savage thanked the Board.

Ms. Decoteau exited the meeting.

2. Preliminary Consultation – Byron O'Donnell, III; DBA East Coast Cider Company for property identified as Tax Map 10, Lot 10-1, to discuss a change of use to create and operate a cider company in an existing building on the property known as the Shamrock Motel.

Byron O'Donnell, III stated he would like to use an existing building on the Shamrock Motel property for making, processing, and selling cider; both non-alcoholic and alcoholic. Mr. O'Donnell, III stated he is aware that there are Federal, State, and other Town permits to obtain, but he would like direction on whether the building in question can be used for his business.

Byron O'Donnell, II stated the building in question has been used as an office, storage space, and gift shop; the building can easily be cleared to make room for the proposed business.

Mr. Babin stated the property as it stands now is a motel; should the cider company do well and exceed the profit of the motel, the cider company will become the primary business. He stated the Board has had a similar request elsewhere in town for a wine company.

Discussion ensued regarding operation and use on the property. Discussion ensued as to whether a change of use was necessary.

Mr. Laufenberg asked Mr. O'Donnell, III if he would be producing, packaging, and selling cider all within the Town of Thornton; Mr. O'Donnell, III stated yes.

367 Mr. Laufenberg stated the property is zoned as Commercial and Industrial; production and sale of locally
368 produced crafts and goods is allowed by special exception within those zones.

369 Ms. Menici stated a special exception would require ZBA action first.

370 Mr. Babin suggested the applicant should contact the ZBA, as many of the Planning Board items that would be
371 needed for a business site plan are already in place from the motel. Mr. O'Donnell, III thanked the Board.

372 3. Preliminary Consultation – Owl's Nest: North Lake and South Lake
373

374 Mr. Warzocha stated there are a few more projects coming down the pipe, including two (2) residential
375 developments on the North side and South side of the lake. He stated the designs are for 60, single family
376 residential units; these would be houses for sale for anyone interested. Mr. Warzocha stated there are more
377 projects coming, but the North Lake and South Lake developments are on the front burner.
378

379 Mr. Babin stated a work session will be scheduled with Mr. Hastings to discuss the LDA; there is a draft copy in
380 office now that is being reviewed.
381

382 Mr. Laufenberg suggested the Board not take another application from Owl's Nest until the LDA is completed.
383 Mr. Babin asked if the work session needed to be noticed, and Ms. Menici stated once the meeting date is decided
384 it will be noticed.
385

386 Mr. Warzocha stated there should not be any other applications coming to the Board until July.
387

388 Mr. Babin asked if the Board would like to see the site. Mr. Stocker stated he is available to give guided tours of
389 the site during the week; groups of four (4) in carts. Ms. Randall will coordinate with the Board members to
390 schedule tours.
391

392 Mr. Rivers stated he is interested in using the recreation facilities at Owl's Nest and asked if this would be a
393 conflict of interest; the Board agreed that it would not be a conflict of interest.
394

395 Ms. O'Donnell asked when the pond would be filled. Mr. Stocker stated June first (1st) is the target date to begin
396 filling the pond. He stated a NHDES permit has been approved to begin filling from the Pemigewasset River with
397 criteria for flow rates depending on the day.
398

399 Mr. Warzocha and Mr. Stocker thanked the Board.
400

401 4. Voluntary Merger Application – Judith Lee Ruhm for Tax Map 10, Lot 9-41, and Lot 9-42.

402 Mr. Babin reviewed the Voluntary Merger with the Board; the application was signed and approved.

403 Ms. Menici exited the meeting.

404 5. Continued Review: Draft of Site Plan Application and Checklist

405 Mr. Babin stated updated drafts of the Site Plan Application and Checklist were submitted by Ms. Menici for
406 review.
407

408 Mr. Rivers asked that page numbers be added; example, Page 1 of 2.
409

410 Mr. Babin suggested that drafts of the Site Plan Application and Checklist be added to the items to be discussed at
411 the work session to be scheduled; this will allow for final drafts to be voted on at the May 20, 2021 meeting. The
412 Board agreed to review during the work session.
413
414
415

416 **ADJOURNMENT:**
417 **MOTION: "To adjourn at 8:40 p.m."**
418 **Motion: K. Waters**
419 **Second: D. O'Donnell**
420 **Discussion: None**
421 **Roll Call Vote: 6 YES - 0 NO - 0 ABSTAIN**
422 **Motion passes.**
423
424 Respectfully Submitted,
425
426 Kerrin Randall, Board Assistant