

TOWN OF THORNTON
PLANNING BOARD

Approved on: 5/19/2022
PB Initials: *SB*
Rec'd by Town Clerk on: 5/24/22
Town Clerk Initials: *ACR*

Planning Board Meeting Minutes
April 21, 2022

CALL TO ORDER – PLEDGE OF ALLEGIANCE:

Chairman Babin called the meeting to order at 6:00 p.m.

ROLL CALL:

Members present at Town Hall: Steven Babin, Chairman; Frank Freeman, Vice-Chairman, Nancy Decoteau, Donna O'Donnell, Peter Laufenberg, Dave Rivers (via Zoom), Karen Waters, Kathy Menici, Planning Director; Kerrin Randall, Board Assistant

Members Absent: Cynthia Schofield

Alternates present at Town Hall: Jack Gaites

Others present via call-in (names are as they appeared via Zoom): David Balsamo, Marcia King, 14015560391, Scott, Diane, Tim Kingston, Anne Karpinski, Mike Karpinski, Steve

Others present at Town Hall: Philip Hastings, Kevin McKenna, Sheryl Brochu, Paul Brochu, Charles Rowley, Anita Rowley, Richard Linck, Sandra Linck, Katri Gurney, Alan Uhlman, Jeffrey Morey, Mark Warzocha, Brad McCoil

Mr. Babin asked Mr. Rivers if he would be participating as a voting member and Mr. Rivers stated yes.

APPROVAL OF MINUTES:

Upon distribution and review of the meeting minutes of February 17, 2022 Meeting, the members took the following action:

MOTION: "To accept and approve the meeting minutes of the Thursday, February 17, 2022 meeting as presented."

Motion: N. Decoteau

Second: K. Waters

Discussion: None

Vote: 6 YES - 0 NO - 1 ABSTAIN

Motion passes.

PRELIMINARY BUSINESS:

1. Board Elections

Mr. Babin reviewed that the elections were continued from the last meeting, as all members were not present. Mr. Babin asked for any nominations for the position of chair.

Mr. Freeman acknowledged the work that Mr. Babin has done as Chair for the past several years and thanked him for his exemplary leadership. He suggested that perhaps another person serve as chair and that a change could be beneficial as, over time, a change in the norm can be more productive.

MOTION: "To nominate and elect Nancy Decoteau as Chair of the Planning Board."

Motion: F. Freeman

Second: S. Babin

Discussion: Ms. Decoteau accepted the nomination.

Roll Call Vote: S. Babin – yes; F. Freeman – yes; N. Decoteau – abstained; D. O'Donnell – yes; P. Laufenberg – abstained; D. Rivers – yes; K. Waters – yes

5 YES - 0 NO - 2 ABSTAIN

Motion passes.

54 **MOTION: "To nominate and elect Steve Babin as Vice-Chair of the Planning Board."**

55 **Motion:** N. Decoteau

56 **Second:** F. Freeman

57 **Discussion:** Ms. Decoteau commented that having Mr. Babin serve as vice-chair will help with the
58 transition of the chair position. Mr. Babin accepted the nomination.

59 **Roll Call Vote:** S. Babin – abstained; F. Freeman – yes; N. Decoteau – yes; D. O'Donnell – yes; P.
60 Laufenberg – abstained; D. Rivers – yes; K. Waters – yes

61 **5 YES - 0 NO - 2 ABSTAIN**

62 **Motion passes.**

63
64 Ms. Decoteau served as Chair at this time and Mr. Babin served as Vice-Chair for the remainder of the meeting.

65
66 **COMMUNICATIONS:**

- 67 1. Lucas Environmental – Updated Vertex Tower Public Notice

68 Ms. Decoteau reviewed that Lucas Environmental reposted the notice for the Vertex cell tower with the corrected
69 access. Planner Menici asked if the Board had any concerns regarding historical sites around the Vertex tower;
70 the Board stated they were not aware of any historical sites at the site. A response to the request of Lucas
71 Environmental will be drafted.

72
73 **HEARINGS:**

- 74 1. APPLICATION/PUBLIC HEARING – Boundary Line Adjustment: Mill Brook Road; Kilmer New
75 Hampshire Holdings [Map 8; Lot 11-02, Lot 11-03, Lot 11-2F].

76 Planner Menici reviewed there was an error in the public notice in the newspaper and the application cannot be
77 heard. She stated the public notice was incorrect, but staff corrected the error prior to abutter notifications being
78 sent; the public notice in paper will run again with the correct information.

79
80 Ms. Decoteau opened the public hearing at 6:12 p.m. and asked for comments; there were none and the public
81 hearing was closed.

82 **MOTION: "To continue the APPLICATION/PUBLIC HEARING – Boundary Line Adjustment: Mill
83 Brook Road; Kilmer New Hampshire Holdings [Map 8; Lot 11-02, Lot 11-03, Lot 11-2F] to May 19, 2022."**

84 **Motion:** N. Decoteau

85 **Second:** K. Waters

86 **Discussion:** None

87 **Vote:** 7 YES - 0 NO - 0 ABSTAIN

88 **Motion passes.**

- 89
90 2. APPLICATION/PUBLIC HEARING – Subdivision: Mad River Road; Linda March Revocable Trust
91 [Map 16, Lot 04-04].

92 Mr. March presented his proposed three (3) lot subdivision, and the Board reviewed the application.

93 **MOTION: "To accept the application as substantially complete."**

94 **Motion:** P. Laufenberg

95 **Second:** F. Freeman

96 **Discussion:** None

97 **Vote:** 7 YES - 0 NO - 0 ABSTAIN

98 **Motion passes.**

99
100 Ms. Decoteau opened the public hearing at 6:20 p.m. and asked for comment.

101
102 Paul Brochu, abutter, asked Mr. March if the lots were going to be developed or sold as land and Mr. March
103 stated they would be sold as individual lots. Mr. Brochu asked if there would be any clearing done on the lots
104 prior to selling and Mr. March stated the lots would be cleaned up, but no clear cutting would be happening at this
105 time. Mr. Brochu had no further questions.

106
107 Ms. Decoteau asked for any additional comments; there were none and the public hearing was closed at 6:23 p.m.

MOTION: "To approve the three (3) lot subdivision "Silverstone" for Mad River Road [Map 16 Lot 04-04] with the following conditions:

- **All necessary state permits to be submitted to the Town prior to the issuance of a Zoning Compliance Certificate**

Motion: F. Freeman

Second: P. Laufenberg

Discussion: None

Vote: 7 YES - 0 NO - 0 ABSTAIN

Motion passes.

3. APPLICATION/PUBLIC HEARING – Amendment to Previously Approved Site Plan: Lafayette Road, Sunrise Nanos J, K, L; LCJ Holdings, LLC [Map 16, Lot 01-7SRCO].

Planner Menici reviewed there was a notification error in the description of the proposed amendment in the public notice in the newspaper and the abutter notices. She advised that the application should be continued to the May 19, 2022 meeting and all notices be resent with the correct description.

Ms. Decoteau asked what the error in the description was and Planner Menici reviewed that the application submitted was to change the units from one (1) to two (2) bedroom units. When staff requested an electronic copy of the amended site plan, a floorplan that showed a second, separate unit rather than a second bedroom only was received. Staff determined the application does not accurately reflect what is being presented.

Attorney Hastings stated he had not seen the floorplans that were submitted and stated his client is looking to optimize the spaces they have and the Nanos units in question have walkout basements that can be utilized as additional living space. He stated they are not proposing a separate dwelling unit, and he will need to get clarification from his client on the layout of the basement as this may affect the LDA discussion that will be happening tonight.

Discussion on the wording in the application submitted and the wording in the public notices occurred. Ms. Decoteau commented, in her opinion, the notices were inadequate based on what the application states and what the applicant is proposing. She agreed that the application should be re-noticed to the paper and abutters to accurately reflect what is being proposed, and the use of the basement needs to be clarified by the applicant.

Mr. Babin commented that he feels the application can be heard, as the notification provided enough information to move forward and Ms. Decoteau stated she has concerns for the abutters not being informed correctly.

MOTION: "To move forward with the hearing of the application for the amendment to previously approved site plan: Lafayette Road, Sunrise Nanos J, K, L; LCJ Holdings, LLC [Map 16, Lot 01-7SRCO]."

Motion: S. Babin

Second: P. Laufenberg

Discussion: Ms. Decoteau asked that staff provide additional copies for the Board to review before the hearing commences and all agreed to continue the hearing once copies were prepared.

Vote: 5 YES - 2 NO - 0 ABSTAIN

Motion passes.

OTHER BUSINESS:

1. Preliminary Consultation: Alan Uhlman [Map 17, Lot 7-41-04] Land use options.

Mr. Uhlman stated he is looking to see what his options are for a piece of land he owns. He reviewed his property on the tax map and commented that it appears he can subdivide to two (2) lots with driveways off Upper Mad River Road or NH Route 49.

Mr. Freeman stated the frontage available is less than what the regulations require to create a parcel. Mr. Uhlman commented that is a concern and reviewed that there are other parcels in Thornton that have no frontage and shared a private driveway to access the back lots. He stated there is nothing in the subdivision regulations that prevent lots without the required frontage to be created.

Mr. Babin reviewed the original subdivision that created Lot 7-41-04, and in his opinion, the shape of the lot was made with the intention of creating a private road to access the larger portion of the parcel. He commented that when the lot was created in 1999, the one (1) acre requirement with road frontage to create a lot was in place, further indicating that the shape of the lot was done intentionally to create a private road. He also commented that the professionals and staff at the time who approved the lot would not have approved it in this way without purpose.

Mr. Rivers exited the meeting at 7:00 p.m. and Ms. Decoteau sat Mr. Gaites as a voting member.

Discussion on the creation of a private road and a shared driveway to access the lot if subdivided continued. Mr. Uhlman stated the lot is currently for sale, and he would like to tell potential buyers what they can do with the parcel.

Planner Menici suggested that Mr. Uhlman meet with her to discuss the different options he wishes to explore, and Mr. Uhlman stated he will set up a meeting. He thanked the Board and exited at 7:21 p.m.

HEARINGS continued:

3. APPLICATION/PUBLIC HEARING – Amendment to Previously Approved Site Plan: Lafayette Road, Sunrise Nanos J, K, L; LCJ Holdings, LLC [Map 16, Lot 01-7SRCO].

The Board reviewed the application as submitted and Ms. Decoteau commented that there was no updated septic permit attached, as stated in the application. Planner Menici commented that a checklist was not required, as several items are addressed in the originally approved site plan.

Ms. Decoteau asked if the application needed to be deemed substantially complete, and Planner Menici stated that the original site plan had been approved, but the concern of staff is that the amendment is not for an additional bedroom in each building as stated in the application, but rather another unit in each building. Staff is concerned that the public was not notified correctly based on what is being proposed and that the application submitted said.

MOTION: “To accept the application as substantially complete.”

Motion: S. Babin

Second: P. Laufenberg

Discussion: None

Vote: 7 YES - 0 NO - 0 ABSTAIN

Motion passes.

Ms. Decoteau opened the public hearing at 7:34 p.m.

Attorney Hastings stated his client is not proposing any new structures and they will be providing walkway access to the basement units. He commented the floorplan of those basement units is to be determined, and he doesn't believe that the layout is relevant at this time. His client is proposing to convert the basements in the Nanos J, K, L into additional living space for the building.

Ms. Decoteau asked if the two spaces were connected by an interior staircase, similar to the Hotel Village buildings. Attorney Hastings stated there was no staircase connecting them, as they are two (2) separate living spaces with a walkway for access between them. Ms. Decoteau stated if there is no interior connection between the units, it cannot be called a two (2) bedroom unit; it would be two (2), one (1) bedroom units. Discussion on accessory dwellings and the requirement for connection of the two floors occurred.

Charles Rowley, abutter, commented that he lives around the corner from the buildings in question and he is concerned that the traffic on Lafayette Road is going to get worse than it already is, as the Lodge is being built and now LCJ Holdings, LLC is proposing to add more rental units to the Nanos. He stated the street is so busy and adding additional units, which are clearly not intended to be rented as family units, will bring more cars to an already congested area.

Mr. Rowley stated there are constantly cars parked on the street, and even contacting Owl's Nest and having cars removed, people still park there. He stated the density is too overwhelming with cars and traffic, and different

groups coming and going each weekend is cause for concern. Mr. Rowley asked how the proposed would work as a two (2) bedroom rental; would parents be upstairs and kids downstairs with no interior connection? He stated his main concern is that adding another unit is cause for concern for the density in the neighborhood. Kevin McKenna, abutter, stated he has lived on Lafayette for 11 years and is across the street from the Nanos. He commented that several of his concerns were addressed by Mr. Rowley, and that the notice he received does not reflect what the applicant has explained and is misleading. Mr. McKenna stated he is concerned with parking, and he is unsure how the two floors are going to be connected and considered a two (2) bedroom unit.

Richard Linck, abutter, echoed all statements made from his neighbors.

Mr. Laufenberg asked if the contention between the Board and the applicant is because the two (2) floors are not connected, the Board is considering it two (2) units. Ms. Decoteau clarified that if they are not connected internally, they are two (2) units.

Ms. O'Donnell clarified that the Hotel Village was approved for use as one unit, or four (4) separate units as they have internal staircases and doors that separate or connect them. She further clarified that the Nanos Units J, K, L were approved as one (1) unit.

Mr. Laufenberg commented when looking at the application, it calls for a change from one (1) bedroom to two (2) bedroom units but hearing from the applicant, it sounds like two (2), one (1) bedroom units. He clarified that there is not a problem with either scenario, but what was applied for is different than what's being presented.

Ms. Decoteau commented there is nothing that addresses the potential need for additional parking at the Nanos. A lengthy discussion regarding parking occurred, with Attorney Hastings and Brad McCoil acknowledged that parking at Owl's Nest is a concern and plans are being made to provide overflow parking areas. B. McCoil commented that providing additional parking is constantly being discussed at Owl's Nest and they understand that it is a concern of the neighbors.

Discussion on different types of units and their purpose occurred and how they could be applied within the buildings occurred. Ms. Decoteau asked for any additional comments.

P. Laufenberg stated the application does not reflect what is being proposed and more precise information needs to be provided, and Ms. Decoteau commented that the units need to be connected in some way to call it a two (2) bedroom unit. Planner Menici stated this discussion confirms the staff recommendation to continue the application due to notification error and discussion continued.

Ms. Decoteau asked for additional comments; there were none and the public hearing was closed at 8:05 p.m.

MOTION: "To continue the APPLICATION/PUBLIC HEARING – Amendment to Previously Approved Site Plan: Lafayette Road, Sunrise Nanos J, K, L; LCJ Holdings, LLC [Map 16, Lot 01-7SRCO] to the May 19, 2022 meeting."

Motion: P. Laufenberg

Second: F. Freeman

Discussion: Mr. Laufenberg commented the Board needs to understand what is being proposed, as the application does not adequately reflect the plan discussed. The majority of the Board agreed with Mr. Laufenberg's statement.

Ms. Decoteau stated public notice and abutter notices need to be resent with a clearer description of the proposed amendment to the site plan; there are two (2) separate units being proposed, rather than the addition of a second bedroom in each building.

Mr. Warzocha stated he needs instruction on what needs to be prepared for the Board to review at the next meeting, and Ms. Decoteau advised that, should the applicant wish, an interior connection to the two floors be shown. She stated this will be in line with the Hotel Village buildings that can be one (1) large

unit or separate ones. Should the applicant wish to have the units separate from each other, a plan for that route would need to be submitted.

Vote: 7 YES - 0 NO - 0 ABSTAIN

Motion passes.

OTHER BUSINESS *continued*:

2. Preliminary Consultation: Jeffrey Morey [Map 18, Lot 9-1-5] Subdivision with shared driveway. Jeff Morey shared that he is in the process of purchasing a parcel that he will be subdividing. He will sell one lot and build on the other. He stated he is looking for advice on whether a shared, deeded driveway between the two property owners would be permissible.

Ms. Decoteau asked why a shared driveway was being explored and Mr. Morey stated the access to the subdivision would be off NH Route 49 and the State has told him only one (1) access will be permitted.

Mr. Laufenberg questioned if a shared driveway would have any effect on applying for a ZCA, and Mr. Morey clarified that both lots would have enough road frontage to be buildable, and the driveway would be deeded to both as shared.

The Board agreed that a shared, deeded driveway between the two parcels is allowable based on the scenario discussed and thanked Mr. Morey for coming. Mr. Morey thanked the Board.

HEARINGS *continued*:

4. PUBLIC HEARING – Land Dedication Agreement with Owl’s Nest

Mr. Laufenberg questioned the need for a Land Dedication Agreement (LDA) as the State has septic loading laws that would prevent overloading, allowing the Board to monitor development. Ms. Decoteau clarified that the LDA is a tool used to keep track for density and maintain the spirit of the zoning ordinance. There are different types of units at Owl’s Nest, and they account for a certain percentage of an acre depending on the use.

Ms. Decoteau opened the public hearing at 8:32 p.m.

Attorney Hastings clarified that the LDA is needed in this case because there was one already in place between the Town and the previous owner of the parcel that governed how density is to be counted. He presented a chart that outlined various scenarios of how the different units can be calculated towards the LDA; septic loading, types of units, etc. He clarified that the LDA numbers before the Board are since LCJ Holdings, LLC has taken over the property.

Attorney Hastings commented it is important to know how much ‘acreage’ they have left before they max out on what is allowed as each type of unit will have a different value depending on use. He commented that the conflicting points in the LDA that have been discussed with Planning Board counsel and staff is what is a dwelling unit and how much available density is used for a non-dwelling unit.

Attorney Hastings went on to read the definition of a dwelling unit from the zoning ordinance and commented that there is a lot of ambiguity within the language regarding cooking, housekeeping, and residential occupancy. He commented that the wording can be interpreted several ways and, as such, the definition of a dwelling unit as it relates to the LDA is not applicable to certain types of units.

Attorney Hastings reviewed the specifics of each of the four (4) scenarios on the chart presented and brought attention to the areas where Owl’s Nest and the Town disagree on the number of acres being counted; Sunrise, Clubhouse and Amenities area, and Hotel Village Phase 1. He commented that both parties are in agreement with the numbers for Lafayette Lodge, Meadows, South Lake Condominium, and North Lake Condominium. A lengthy discussion continued on the possible accommodations each party could make to come to an agreement.

Planner Menici commented that when the original LDA was created between the Town and Owl Street Associates, the developer at the time was leaning towards building residential units with a hotel and when ownership changed hands, LCJ Holdings, LLC began leaning more towards commercial units. She commented

that it would be helpful for the Board to understand what the current developer anticipates the buildout of the project is going to be. This will help the Board understand the effect on the LDA moving forward.

Planner Menici exited the meeting at 9:30 p.m.

Mr. Babin stated talking about future scenarios if diverting the Board from their duty of looking at what is presently in front of them. He commented the Board cannot contemplate what could potentially happen.

MOTION: "To accept Alternative #2 – LCJ Proposed Alternative Unit Availability Calculations, following review by Planning Board Counsel. The Board asks that LCJ Holdings, LLC increase the dwelling units for the Hotel Village to 13." *See page 8*

Motion: S. Babin

Second: K. Waters

Discussion: Mr. Freeman stated Alternative #2 is a non-starter for him, as he does not agree that the use of a structure dictates what it is counted as; a residence is a residence and should be counted towards the acreage as such. He commented that they are going to run out of room.

Mr. Laufenberg asked that Attorney Hastings go back to the owner and ask about bringing the Hotel Village up to 13 units and Attorney Hastings agreed that raising the number to 13 is a reasonable compromise. He will bring it to LCJ Holdings, LLC for consideration.

Mr. Babin stated the LDA is not being signed today, but the calculations need to be voted on in order to craft the wording in the document. He stated the Board will request that Hotel Village be raised to 13, but the calculations in Alternative #2 will be memorialized. He clarified that legal counsel will need to review the calculations and the document before the Board and LCJ Holdings, LLC can approve.

Vote: 4 YES - 2 NO - 1 ABSTAIN

Motion passes.

MOTION: "To continue the PUBLIC HEARING – Land Dedication Agreement with Owl's Nest to the May 19, 2022 meeting."

Motion: P. Laufenberg

Second: F. Freeman

Discussion:

Vote: 7 YES - 0 NO - 0 ABSTAIN

Motion passes.

PLANNING BOARD ITEMS OF DISCUSSION:

MOTION: "To record all Planning Board meetings using Zoom and post the video recordings online."

Motion: P. Laufenberg

Second: S. Babin

Discussion: Ms. Decoteau stated that legal counsel should be consulted prior to recording and posting online, as there may be additional actions that need to be taken. She commented some towns post recordings then take them down once the minutes are written and posted as the official record.

Mr. Laufenberg stated there's a huge problem with transparency in the Town of Thornton. Mr. Babin echoed Mr. Laufenberg's statement and commented that the BOS needs to hold meetings later in the day so more residents can attend. Mr. Babin asked that Ms. Decoteau update the Board with legal counsel's thoughts on posting meetings online.

Vote: 7 YES - 0 NO - 0 ABSTAIN

Motion passes.

ADJOURNMENT:

MOTION: "To adjourn at 9:36 p.m."

Motion: P. Laufenberg

Second: F. Freeman

Discussion: None

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

Motion passes.

Respectfully Submitted,

Kerrin Randall, Board Assistant

Alternative #2 - LCJ Proposed			
	(a) Dwelling units are only those residential units not used for lodging accommodations (with one exception) (b) Reduction in density for commercial uses is based on sewage loading.		
Project	Description	# of Dwelling Units Deducted or Added	Available Dwelling Units (Beginning Balance = 236.73)
Sunrise	Previously deducted dwelling units	12.00	248.73
	20 buildings, 8 of which (the gambrels) are dwelling units and 12 of which (the 1 BR nanos) are hotel rooms (2,400 gpd sewage loading)	(9.20)	239.53
Clubhouse & Amenities Area	Nonresidential/commercial (12,528 gpd sewage loading)	(6.26)	233.27
Meadows	Previously deducted dwelling units	5.00	238.27
Lafayette Lodge	33 room hotel with no kitchens (7,830 gpd sewage loading)	(3.92)	234.35
Hotel Village Phase I	52 hotel rooms in 13 buildings (10,440 gpd sewage loading)	(5.22)	229.13
South Lake Condominium	15 dwelling units	(15.00)	214.13
North Lake Condominium	48 dwelling units	(48.00)	166.13