

**TOWN OF THORNTON
PLANNING BOARD**

Approved on: 9.15.22
PB Initials: NAD
Rec'd by Town Clerk on: 9/20/22
Town Clerk Initials: ACR

**Planning Board Meeting Minutes
Thursday, August 18, 2022**

CALL TO ORDER – PLEDGE OF ALLEGIANCE:

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

ROLL CALL:

Members present at Town Hall: Nancy Decoteau, Chairman; Steven Babin, Vice-Chairman; Donna O'Donnell; Karen Waters; David Rivers; Kathy Menici, Planning Director; Kerrin Randall; Board Assistant

Members present via call-in: None

Members not present: Frank Freeman, Peter Laufenberg

Alternates present at Town Hall: Jack Gaites (*entered at 6:15 p.m.*)

Alternates absent: Cynthia Schofield

Others present via call-in (partial names are as they appeared via Zoom): Eric K, Mike Plotnick, Eric Gibbs, John Harris, Participant, 16037140971, DONNA BATES, Rick Bessette's iPhone, Rick Fritz, Mark Decoteau, Scott, Richard's iPad

Others present at Town Hall: Shawn Magoon, Christina Guilbert, Bob Gallagher, Diane Gallagher, Roxana Wright, Brad Trott, Cecile Trott, Michael Riley, Maureen Norman, Bob Murray, Lin Murray, Philip Hastings, Chad Stocker, Jon Warzocha, Cheryl Wallace, John Wallace, Judy Faran, Sherrill Howard, Karen Farrenkopf, Dennis Farrenkopf, John Kubik, Tim White, Pam White, Kevin McKenna, Charlie Boppe, Mark Invernizzi, Kristin Franklin, Lisa Fritz, Rick Fritz

APPROVAL OF MINUTES:

Upon distribution and review of the meeting minutes of July 21, 2022, the members took the following action:

MOTION: "To accept and approve the Minutes of the Thursday, July 21, 2022 meeting as amended."

Motion: S. Babin

Second: D. O'Donnell

Discussion: None

Vote: 4 YES - 0 NO - 1 ABSTAIN

Motion passes.

Ms. Decoteau acknowledged that there were several members of the public present and asked if anyone in attendance is here for the continued hearing on the Pemi River Campground. The majority of those present stated yes. Ms. Decoteau commented that the applicant and their agent have requested in writing that their hearing be continued to the September 15, 2022 meeting. As neither the applicant nor their agent is present to make or answer comments, the continued public hearing cannot be open. Ms. Decoteau commented that it is regretful that several members of the public came to the public hearing that was scheduled for this evening, but per State statutes the hearing cannot be opened.

MOTION: "To accept the request of the applicant and their agent to continue the hearing for Site Plan Review; Tom Duffield as agent for Pemi River Campground. [Map 240 Lot 129] to the September 15, 2022 meeting."

Motion: K. Waters

Second: D. Rivers

Discussion: Ms. Decoteau again apologized to the public for coming in tonight and not being able to open the hearing. She stated the Board has a responsibility to balance out the needs of both the public and applicants, and there is nothing the Board can do at this time regarding the application.

Vote: 5 YES - 0 NO - 0 ABSTAIN

Motion passes.

Mr. Gaites entered the meeting at 6:15 p.m. and Ms. Decoteau sat him as a voting member in place of Mr. Freeman.

Mr. Babin commented that a member of the public submitted written correspondence to the Board regarding this application and was seeking confirmation that the letter was received. Planner Menici asked that anyone who would like confirmation that their correspondence was received contact her following the meeting.

Ms. Decoteau asked if there are any members of the public who wanted to make comment not relative to the application. Bob Murray, abutter, stated he had a procedural question and commented that he feels that the Board is denying the public the ability to comment, as the applicant was able to speak about the application in June without public notice and that was not fair to the public who are very concerned.

Ms. Decoteau commented that the applicant came before the Board in June for a preliminary discussion, and it was listed on the agenda. She commented that anyone can come before the Board for preliminary, non-binding discussion prior to submitting an application.

Mr. Murray continued to question how the applicant was able to come before the Board to talk about a project without the public being noticed. Planner Menici clarified that a preliminary discussion is an opportunity for an applicant to meet with the Board prior to an application being filed to clarify what the application needs in order to be in compliance with the Zoning Ordinance; no regulations are discussed, and it is a very general conversation.

Mr. Murray commented that a member of the Board made a comment during the preliminary discussion that the application seemed to meet all the requirements. Ms. Decoteau clarified again that the conversation had at the preliminary discussion was non-binding and that the Board listens to the potential applicant to make sure there is nothing glaringly wrong with the application.

Judy Faran, Chair of the Pemigewasset River Local Advisory Committee (PRLAC) asked if members of the public could submit an appeal to the Board regarding an application if an application is continued month after month. Ms. Decoteau commented that there is a time clock in play and reviewed that anyone who is opposed to an applicant can submit their concerns in writing to the Board.

Ms. Decoteau thanked the public for coming and reviewed that the hearing would be continued to the September 15, 2022 meeting.

PRELIMINARY BUSINESS:

1. John Kubik, Road Agent, to discuss proposed tree removal and ditch line work on a section of Millbrook Road

Road Agent (RA) Kubik stated he was present on behalf of the BOS and the Highway Department, as they intend to make improvements to a section of Millbrook Road. He commented that his department has four (4) proposed areas of Millbrook for improvement and the property owners of one section have agreed to the project. RA Kubik stated, as Millbrook Road is state Scenic Road, approval from the Planning Board is needed to remove trees, and he will be submitting an application for the September 15, 2022 meeting.

RA Kubik commented that his department will be banding trees that will need to be removed for the improvements planned and wanted to let the Board know about that in the event that someone asks. He asked the

Board what application the Board would like filled out, as this is not a standard proposal. Planner Menici commented that a drawn plan with the areas proposed for ditching marked, as well as the location of the banded trees that will be cut will be needed. A brief narrative would be helpful as well. Planner Menici commented that public notice will be paramount, as there will undoubtedly be questions.

Mr. Rivers asked if other trees that are dead and pose a danger to the public are going to be taken down as well if they are not part of the proposed area of improvement. RA Kubik stated he will be going out to band trees in the coming weeks and will assess if additional trees may need to be removed for safety.

The Board thanked RA Kubik and he exited the meeting at 6:18 p.m.

2. Short Term Rental Regulations: Update

Ms. Decoteau reviewed for those in attendance that there was a directive on the 2020 warrant article about the town wanting the Board to pursue creating regulations for short term rentals. Currently, there are a couple of Board members working on draft regulations that will start the conversation and process for public discussion. She commented that the proposed regulations are in no way final, but can be used as a starting point at the Public Hearing.

Ms. O'Donnell commented that she and Mr. Rivers have drafted regulations and an application. She reviewed that these documents were developed for existing short term rentals; as it currently stands, any new construction that is going to be a short term rental will require site plan review.

Ms. Waters asked for clarification: if someone builds a new structure that will be used as a short term rental, site plan review is needed. Ms. O'Donnell stated yes, unless other regulations are determined by the Board. As it stands, without town regulations for short term rentals, all properties being used for short time rentals will require site plan review.

Ms. O'Donnell commented that the proposed regulations and application would simplify the process for property owners and the Planning Board so that a full site plan review wouldn't be needed.

Mr. Babin questioned the appropriateness of the Board taking this up, as it is an action being given by BOS. He continued that the BOS is diverting from the historical version of local government and how it works. He asked if the Board believes that creating regulations for short term rentals is taking rights away from landowners. Mr. Babin stated in 2020 there may have been an error by not applying the applicable RSA and it is his opinion, hearings held by the BOS were not noticed properly.

Ms. Decoteau responded to that by reiterating that the Board's intention is to have a public hearing on short term rental regulations, and the proposed documents before the Board are to begin the conversation; the Board does not want to go into a public hearing without something to reference.

Mr. Babin asked what the BOS and Planning Board definition for a hearing was, as he believes that they are currently deliberating the rights of owners and not considering the discussion a hearing. He commented that it is the duty of this Board, not external counsel, to decide if the rights of people are being discussed at a hearing. He stated there needs to be a decision from the Board on if they are talking about the rights of property owners.

Ms. Waters commented that the Board went to the public with the warrant article, and they voted for the Board to pursue developing regulations for short term rentals. The public asked the Board to act, and, in her opinion, they are addressing what was voted on.

Mr. Babin stated the Board is not trying to act on the warrant. In this deliberation, we have been asked by the BOS, not the legislative body. Ms. Waters asked Mr. Babin if voters are not the legislative body, and Mr. Babin stated that was correct.

Mr. Babin stated the zoning regulations and town regulations are directed by the BOS, and people were never notified that these regulations will be changing their property rights. He continued that changes in property owner's rights need to be done by the electorate. Ms. Decoteau repeated that none of the proposed regulations have been approved, and they were created to begin the conversation at a future public hearing with property owners. Ms. Waters commented that property owners voted that short term regulations be investigated by this Board and Mr. Babin commented that they did not notify people that their property rights were being affected; discussion continued.

Ms. Decoteau stated the Board was charged, via warrant article, and authorized to draft regulations for short term rentals; what the BOS is or isn't doing is not what is being discussed. She stated the BOS is compliance and further discussion on what they do is not in the Planning Board's lane. Ms. Decoteau stated they are not putting out for a public hearing unless we have at least something to bring to the public to discuss. She commented that she doesn't know if the Board is going to adopt them because they haven't heard from public yet.

Ms. Decoteau reviewed that what was drafted is something that may help property owners not have to apply for site plan review. She commented that it is going to be a public decision and the public will be asked for input before anything is implemented.

Mr. Babin asked that RSA 43:2 be used for notice to the public. Ms. Decoteau commented that she is unfamiliar with this RSA, and Mr. Babin commented that the BOS is not familiar with it either. Ms. Decoteau asked Planner Menici to check with legal counsel to see if this is applicable for what is being discussed.

Mr. Babin commented that they are a quasi-judicial Board, and they should not be asking someone outside of the Board for clarification. Mr. Babin then cited RSA 43:2,

43:2 Notice of Hearing. – They shall appoint a time and place of hearing, and order notice thereof to be given to all persons whose property or rights may be directly affected by the proceeding, by giving to them or leaving at their abode an attested copy of the petition and order 14 days at least before such hearing, or, if such persons are nonresidents, by publication. If the owner is under guardianship such notice shall be given to his guardian. If the owner is a minor, or under any legal disability, the judge of probate may appoint a guardian for such person, to whom notice shall be given.

Planner Menici commented she is concerned that the RSA is being taken out of context, as it is relating to BOS processes. She stated she thinks the request for legal counsel is a good one. Mr. Babin stated he would like to add that we are a local governing board, and they all took an oath. He asked members if they believe a person has property rights, and if it is appropriate to take rights away or not.

MOTION: "To schedule a public hearing for proposed draft of Short Term Rental Regulations for the September 15, 2022 meeting."

Motion: D. O'Donnell

Second: K. Waters

Discussion: Ms. Decoteau stated she doesn't want to move forward until legal counsel has been consulted. Planner Menici reviewed that the notice will be posted in the Plymouth Record Enterprise, town website, and at Town Hall; this is standard procedure for a public hearing.

Mr. Babin stated that is not the procedure when land rights are in play. He commented that the idea that the Board doesn't want to contact property owners individually and would rather put a posting on a wall that no one sees is a problem. He added that he has been told that people don't know how things are posted.

Mr. Rivers asked Mr. Babin if he is implying that the town is intentionally not informing the public of hearings and Mr. Babin stated that by omitting sending a letter to property owners and assuming they know where to find information is not informing them.

Ms. Decoteau reviewed that Mr. Babin believes that RSA 43:2 applies to this topic, and she would like Planning Board legal counsel to review the RSA to see if this is correct. Mr. Babin asked the Board to

217 give their opinion on the RSA he cited, and Ms. Decoteau stated that would not be done at this time. Ms.
218 Babin stated this is a subservient board who is saying that the lawyer opinion is equal to an elected
219 member and asked why there is no attorney on the Board if that is the case.
220

221 Ms. Waters commented that it is unfair to say the Board is not allowed to look at outside resources; they
222 are all volunteers and if there are outlets available for members to get more information they should be
223 entitled to do so.
224

225 Ms. Decoteau called the motion to question.

226 **Vote: 5 YES - 1 NO - 0 ABSTAIN**

227 **Motion passes.**
228

229 The Board discussed if there is need to have the public hearing separate from the regular monthly Board meeting,
230 and further discussion on when legal counsel would have a response to the Board, and how, if needed, a mass
231 mailing would need to be processed. Mr. Babin asked, in the interest of transparency and to save on legal fees,
232 notice of the public hearing could be sent to all property owners from the tax department. Mr. Rivers stated it
233 would be misleading for the tax office to send something for property owners for something other than taxes.
234

235 After further discussion, Ms. O'Donnell amended her previous motion to read:

236 **AMENDED MOTION: "To ~~schedule~~ discuss and review the logistics for a public hearing for**
237 **proposed draft of Short Term Rental Regulations for at the September 15, 2022 meeting."**

238 **Motion:** D. O'Donnell

239 **Second:** K. Waters

240 **Discussion:** None

241 **Vote: 5 YES - 1 NO - 0 ABSTAIN**

242 **Motion passes.**
243

244 Ms. Decoteau acknowledged members of the public in attendance and asked for brief comments.
245

246 Pam White commented, regarding Mr. Babin's tirade on property rights, the Planning Board has their notices in
247 the paper, on the web, and at the office, and she is not sure why there has to be any extra steps just because we are
248 talking about short term rentals, and she questioned why this has to be a long discussion. Ms. White stated every
249 other situation that affects immediate abutters affects the whole town, but notification doesn't go to the whole
250 town. She stated she does not want a precedence set because Mr. Babin thinks this is taking away property rights.
251 Ms. White stated everything done here effects the whole town, and mass mailings are not needed and the system
252 in place works. She commented it will be time consuming, costly, and unnecessary to send written notice to all
253 property owners.
254

255 Kristen Franklin commented she has girlfriends who rely on short term rentals as their source of income, and not
256 everyone knows to look on the website for notices; some are out of state as well and don't read the local paper.
257 She commented that because this effects the livelihood of some people, other avenues for notice need to be
258 explored, and she appreciates Mr. Babin's comment.
259

260 3. Master Plan Committee: Update

261 Ms. O'Donnell reviewed that the town wide surveys are getting ready to be distributed, and a web link as well as
262 QR code are on the printed surveys for people to complete it online. She commented that once results are
263 received, public meetings may be held to discuss certain items in more depth.
264

265 Ms. O'Donnell commented that the BOS would like to see the final survey before it is sent out and asked if the
266 Planning Board had concern with the request. The Board decided that there is no issue in showing the BOS the
267 final draft of the survey.
268

269 4. Conducting Public Hearings

Ms. Decoteau commented that this is not a single person board, and that everyone at the table has the same amount of voice and responsibility. She asked board members to consider taking charge of a public hearing during meetings, rather than her conducting the procedures; this will give other members the opportunity to be familiar with running a hearing. Ms. Decoteau asked that any member interested in running a public hearing contact her.

COMMUNICATIONS:

1. Public Notice to be posted by Town of Thornton Board of Selectmen

Ms. Decoteau reviewed that the BOS will be posting a reminder on the town website regarding short term rental operation as it currently stands in the Zoning Ordinance. She reviewed that any commercial use of a property requires Site Plan Review until other such options for short term rental owners are established. Ms. Decoteau commented that the BOS is currently in contact with a property owner who is not in compliance with the Zoning Ordinance; concerned citizen reports were submitted and the ZCO acted accordingly. Ms. Decoteau reviewed that a letter from the BOS that was sent to the property owner is included in their packets for review.

Mr. Babin asked if the public had copies of the concerned citizen forms and non-compliance letter, and Planner Menici stated all information regarding this concern is public record, and the public may request copies or view them in office.

2. Correspondence from the Thornton Conservation Commission and the Pemi River Local Advisory Committee re: Owl's Nest AOT permit for Borrow Pit and Trout Pond.

Ms. Decoteau reviewed that a letter was sent from the Conservation Commission to accompany a letter from PRLAC that had concerns on an AOT for a trout pond and borrow pit. Ms. Decoteau commented that she was not familiar with this project and asked if it was part of an existing site plan. Planner Menici stated there is no site plan for this project, and Attorney Hastings added that they do not require one, as this is not a commercial excavation. He commented that the paperwork is being provided to the Town in accordance with the NHDES Alteration of Terrain requirements.

Planner Menici shared that legal counsel feels that a minor site plan review should be submitted to review the materials being excavated, slopes, floodplain information, etc. Attorney Hastings reiterated that the project is not a commercial excavation, and he will follow up with Attorney Serge.

Ms. Decoteau asked Ms. Lewis, chair of the Conservation Commission if she had any comments to add on the letter submitted, and Ms. Lewis stated PRLAC and the Conservation Commission share the same concerns with this project.

Ms. Lewis reviewed that there is concern with the proximity of the pond in relation to the Pemi River shoreline, flooding concerns, and the process of drawing water from the Pemi to fill it. She commented that it is understood that the AOT and shoreland are under the jurisdiction of NHDES, but the Conservation Commission and PRLAC felt the need to share their concerns. Ms. Decoteau thanked Ms. Lewis.

Mr. Babin commented that last year, the Conservation Commission was talking about making improvements to the river access off Robbins Nest Road, and since that time they have spoken with the BOS about it. He asked Ms. Lewis and Ms. Gurney why they are discussing this with the BOS and not using RSA 674 to speak with the Planning Board.

Ms. Gurney reviewed that part of the property that is looking to be improved is owned by NHDOT and not the Town of Thornton, hence why they went to speak with the BOS, as they would have to approve an agreement with NHDOT to use that land. She reviewed that the BOS had concerns with liability and insurance needed, and the Conservation Commission is working on those for the BOS to review.

Mr. Babin stated that he thinks the jurisdiction is in the wrong spot, as this is a land use issue that the BOS does not have dominion over; the Planning Board does. He commented that his understanding of RSA 674:54 is that the property in question is not a town building, and the BOS has no jurisdiction.

Ms. Lewis stated the property in question is owned by NHDOT, not the town. She commented that if using NHDOT land is going to be a big hurdle, the Conservation Commission did not want to get the Planning Board involved unnecessarily. She stated once they are over the first hurdle of using the property, they will come to the Board with a site plan, but they are not there yet. Ms. Lewis commented that the project is unlikely to start this year, but possibly in 2023.

Mr. Babin commented that the BOS role as laid out in the RSA is to spend town money. When the Conservation Commission goes to them with a plan, the BOS sees how much money it is going to cost the town and oftentimes there is a disconnect. He commented the BOS tends to have conversation and direct actions without talking to those involved.

Ms. Lewis repeated that the property in question is not Town land and is owned by NHDOT. Mr. Babin stated the Conservation Commission is seeking the Town to somehow take responsibility from the state. Ms. Lewis commented that they are investigating what makes sense moving forward, and when the time comes, the Conservation Commission will come before the Planning Board. Ms. Decoteau thanked Ms. Lewis for her comments.

HEARINGS:

1. CONTINUED APPLICATION – Site Plan Review; Tom Duffield as agent for Pemi River Campground. [Map 240 Lot 129]. *Adding 38 campsites.*

Ms. Decoteau reviewed that this hearing has been continued to September 15, 2022.

2. APPLICATION/PUBLIC HEARING – Boundary Line Adjustment; Marc Burnell as agent for LCJ Holdings, LLC and The Meadows HOA [Map 240 Lot 52, Map 240 Lot 109, and Map 240 Lot 110].

Attorney Hastings distributed an updated plan for the BLA, as there was miscalculation on the acreage listed on the previous plan; the actual lines have not changed. Ms. Decoteau asked that, for all plans submitted, the title of the plan, the date of print, and the location of the project be read into the record. This will ensure that the correct plans are being discussed if updated plans are submitted. The Board and applicant agreed.

Title: Plan showing Lot Line Adjustment made for Meadows Condo Association and LCJ Holdings, LLC.

Plan Date: June 29, 2022 as revised through August 17, 2022

Location: Owl's Nest Resort – Clubhouse Lane and Lafayette Road

Attorney Hastings presented the Boundary Line Adjustment and commented that concerns received from Mr. Keach and Planner Menici have been addressed. He commented that this line adjustment will create a parcel for the proposed Country Store that is before the Board for Site Plan Review tonight. The Board reviewed the plan.

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

Motion: S. Babin

Second: K. Waters

Discussion: None

Vote: 6 YES - 0 NO - 0 ABSTAIN

Motion passes.

Ms. Decoteau opened the public hearing at 7:20 p.m.

Kevin McKenna, abutter, commented that the Windcrest Homeowners' Association has no concern with the proposed plan.

Bob Murray, abutter, asked if any part of the driving range would be affected and Attorney Hastings stated no, the property across the road from the actual driving range will have some adjustment.

Ms. Decoteau asked for any additional questions or comments. As there were none, she closed the public hearing at 7:25 p.m.

MOTION: "To approve the Boundary Line Adjustment; Marc Burnell as agent for LCJ Holdings, LLC and The Meadows HOA [Map 240 Lot 52, Map 240 Lot 109, and Map 240 Lot 110] with the following conditions:

- Monumentation to set on the plat and in the field prior to recording the plat. A note to be added to the final plat certifying that the monumentation has been set, to be signed and dated by the NH-licensed surveyor.
- Final plat to be amended to include the lot area of the parcel identified as Map 240 Lot 110 following annexation.
- Amended NH-DES Subdivision Approval for the parcel identified as Map 240 Lot 52.
- The following note to be added to the plan:
“The ways shown on this plan are intended by the owner/applicant and Town of Thornton to be planned, constructed, and maintained as private ways. Neither the approval nor recording of this plan shall be construed as an offer of public dedication under New Hampshire law of dedication and acceptance.”

Motion: S. Babin

Second: D. O'Donnell

Discussion: None

Vote: 6 YES - 0 NO - 0 ABSTAIN

Motion passes.

3. APPLICATION/PUBLIC HEARING – Site Plan Review; Marc Burnell as agent for LCJ Holdings, LLC. [Map 240 Lot 109]. *‘Country Store’ with food services and Tesla charging stations.*

Title: Owl's Nest Country Store/Deli/Tesla Station

Plan Date: June 2022

Location: Owl's Nest Resort – Clubhouse Lane and Lafayette Road

Attorney Hastings reviewed that this application was submitted for the July meeting, but due to inaccurate abutter information, a preliminary discussion was held at that meeting. In that time, the application went ahead for the third-party review. Attorney Hastings reviewed that the Keach-Nordstrom report was not received until August 9, 2022 and changes were made to the site plan accordingly. He commented that a revised site plan was delivered to the Planning Office this morning. Planner Menici clarified that an electronic copy was received this morning, and no paper copies were delivered.

Attorney Hastings stated all concerns noted by Keach-Nordstrom have been addressed on the revised plan sent this morning, and Planner Menici commented that she has not been able to review the site plan and submit her report.

Ms. Decoteau thanked Attorney Hastings for the background on the application and asked Planner Menici if the timeline provided was accurate. Planner Menici stated yes and recommended that the application be found substantially complete for the applicant to take input from the Board.

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

Motion: S. Babin

Second: D. O'Donnell

Discussion: Ms. Decoteau commented that she has no intention of voting to approve this application, as the revised plans have not been reviewed, but discussion on the application can occur.

Vote: 6 YES - 0 NO - 0 ABSTAIN

Motion passes.

Ms. Decoteau opened the public hearing at 7:37 p.m.

Attorney Hastings reviewed that his client is proposing a one (1) story building that will be 31 feet at its highest point. The building will be a little over 3,500 square feet, with seating on a covered porch. Attorney Hastings stated the intent is to have a store and deli that will be open to residents, guests, and the public to buy foodstuffs, beverages, and other convenience items. He reviewed that parking will be in the front of the building with four (4) electric vehicle charging stations with additional parking and six (6) Tesla charging stations in the back of the building.

Ms. Decoteau asked if there is a loading area that will not block traffic. Attorney Hastings stated the building is oriented in such a way that there will be a loading area that is off the street and there will be adequate room for local traffic.

Mr. Murray commented that he is happy to see a store with food available within Owl's Nest and asked if there has been discussion on increased traffic and the addition of a second entrance into the resort. Attorney Hastings commented that there has been discussion of adding a second entrance, but further work needs to be done before anything is finalized.

Ms. Lewis commented that she would like to commend LCJ Holdings, LLC for bringing food and shopping to Thornton. Ms. Decoteau asked for any additional questions or comments. As there were none, Ms. Decoteau closed the public hearing at 7:51 p.m.

MOTION: "To continue the Site Plan Review, Country Store and Tesla Charging Stations; Marc Burnell as agent for LCJ Holdings, LLC. [Map 240 Lot 109] to the September 15, 2022 meeting."

Motion: D. O'Donnell

Second: K. Waters

Discussion: None

Vote: 6 YES - 0 NO - 0 ABSTAIN

Motion passes.

OTHER BUSINESS:

Ms. Decoteau commented that in the past, the Board agreed that the chair, along with the Planner, would be allowed to approve structures that are considered ancillary, if they do not drastically change a previously approved site plan. She reviewed that she wanted the Board to review a plan submitted by Owl's Nest that had small structures added that were not on the original site plan.

Attorney Hastings reviewed that sun shelters were added to the previously approved plans for the tennis and pickleball courts. Mr. Stocker distributed photos of the shelters as well as plans for a shed to go over a pump house. The pump house shed would be similar to another shed that was deemed ancillary to cover a different pump house.

Planner Menici asked why the sun shelters were not on the original site plan and Mr. Stocker stated that small additions like these come into play and are moving targets. He commented that he cannot apply for a ZCA and pay the applicable fees for the shelters until the Board makes a decision.

Ms. Decoteau stated she understands what Mr. Stocker is trying to do and agrees that the shed around the pumphouse is ancillary. However, she felt the 12 sun shelters on the courts needed to be reviewed by the whole Board to decide if they are ancillary. She commented that she, as chair, has no problem meeting with Planner Menici to look at future applications that come in with similar structures or small changes and she wanted the Board to help her determine the threshold of what she, as chair, can deem ancillary.

Mr. Rivers commented that the structures are benign to the plans as a whole and common sense shows that they can be approved by the chair as ancillary. Mr. Gaites, Mr. Babin, Ms. Waters, and Ms. O'Donnell echoed Mr. Rivers' comment.

Ms. Decoteau stated that the 12 sun shelters and shed over the pumphouse are ancillary structures to the original site plan and she will inform the Zoning Compliance department.

1. PRELIMINARY DISCUSSION – Owl's Nest proposed playground installation on the north side of the lake.

Attorney Hastings reviewed that his client would like to build a playground on the north side of the lake that would only require a retaining wall.

487 Ms. Decoteau asked if the playground would be open to the public and Attorney Hastings stated yes. Planner
488 Menici asked about parking, and Mr. Stocker stated there will be no parking at the site, as it is intended for guests
489 and residents of Owl's Nest who can walk there, and there will be 'no parking' signs posted.
490

491 Discussion on the accessibility of the playground to the public continued. Ms. Randall asked if there would be
492 any features for those with disabilities, and Mr. Stocker stated he is unsure if there are specific ADA compliant
493 features and he will investigate it.
494

495 Mr. Rivers asked what actions Attorney Hastings was looking for the Board to take on this and Attorney Hastings
496 commented that he was seeking guidance on if this required site plan review or if it was an ancillary. After more
497 discussion, the Board deemed that the playground was an ancillary structure and did not require site plan. Ms.
498 Decoteau stated she will note this to the Zoning Compliance department.
499

500 The Board thanked the applicants and they exited at 8:20 p.m.
501

502 2. House Bill 1661

503 Ms. Decoteau thanked Planner Menici for her summary on the content of HB 1661 as they relate to the Board
504 procedures. She commented that she does not feel the Board needs to discuss this in depth and strongly
505 encouraged members to review the summary.
506

507 Planner Menici noted that most of the content is self-explanatory, and there has been a change to the 65-day rule
508 that will not become effective until January 1, 2023.
509

510 **ADJOURNMENT:**

511 **MOTION: "To adjourn at 8:27 p.m."**

512 **Motion:** K. Waters

513 **Second:** D. Rivers

514 **Discussion:** None

515 **Vote:** 6 YES - 0 NO - 0 ABSTAIN

516 **Motion passes.**
517

518 Respectfully Submitted,

519
520 Kerrin Randall, Board Assistant