

TOWN OF THORNTON PLANNING BOARD

Approved on: Sept 19 2019
PB Initials: SB
Rec'd by Town Clerk on: 9/24/19
Town Clerk Initials: dpm

Planning Board Meeting Minutes Thursday August 15, 2019

CALL TO ORDER – SALUTE TO THE FLAG:

Vice-Chairman F. Freeman called the meeting to order and led the Pledge of Allegiance at 6:00 p.m.

ROLL CALL:

Members present: F. Freeman, L. Hoyt, D. O'Donnell

Alternates present: F. Gunter, G. Kimball,

Members/Alternates absent: S. Babin, B. Dutto, P. Laufenberg, R. Sabourn, C. Schofield, J. Piehn

Vice-Chairman F. Freeman stated that a quorum was not present, there being just three (3) Members present. He then appointed Alternate G. Kimball to sit in place of absent Member B. Dutto and Alternate F. Gunter to sit in place of absent Member P. Laufenberg, both for the evening's meeting.

F. Freeman then acknowledged that a quorum was present.

Others present: Brian Regan, Jon Warzocha (Horizons Engineering), Chad Stocker (Dupuis Construction), Dick & Sandy Linck.

APPROVAL OF MINUTES: Upon distribution and review of the meeting minutes of July 18, 2019, the members took the following action:

MOTION: "To accept and approve the Minutes of the Thursday July 18, 2019 meeting as amended."

Motion: G. Kimball

Second: F. Gunter

Discussion: B. Regan acknowledged he had received input from some board members as to suggested corrections or changes and the final version is presented as so amended

Motion passes: 4-YES, 0-NO, 1-Abstain (D. O'Donnell)

PRELIMINARY BUSINESS:

1. Signing of site plan of LCJ Holdings, LLC for Lake & Road Extension project at Owl's Nest Resort.

B. Regan stated that was a carryover from last month. The plans were here, however, they did not get signed until after the Notice of Decision did get signed and went out. Between that time and now and when he told me he couldn't be here this evening, S. Babin had stopped in and signed that particular plan; it was approved last month. That item is done. Copies are ready for the applicant.

2. Re-signing of revised site plan of Mountain River Development, LLC - "The Falls".

B. Regan stated in March, the applicant presented a plan to amend a previously approved plan to remove essentially half of the units of the proposed condominium development. The units were not constructed; they were part of the original plan. The first half has been constructed. They are asking to have that removed and at that time, they came in with an eleventh hour change to what they had planned originally based on their attorney's request to add a note (#9 on the original plan) stating, "additional units may be added to the condominium at a later date through conversion." What they

meant was that any prospective buyer would be able to develop the same units, which did not make a lot of sense.

F. Freeman questioned that they would not reappear before the board?

B. Regan stated that it would seem that is what they meant, but he didn't think it could have happened that way. They also had a note on the plan itself showing the conversion land. They had not yet recorded the Mylar which had been signed and had been approved, because they are waiting on the condo documents to be prepared and the unit plans to be prepared. In the interim, they thought twice about it and agreed to remove that note so that there will be no reference to conversion units or conversion lands. They have presented the Mylar again for signature without that on it. So it's basically what they originally proposed without the attorney's last minute addition. Everything else is the same. B. Regan stated his inkling is that they have a prospective buyer and want to get this done. B. Regan stated they have been selling a lot of things; might not be this yet, but they have been liquidating a lot of items. If there are no real objections, his recommendation would be it be approved and signed.

MOTION: "That we re-sign the revised site plan of Mountain River Development, LLC – The Falls."

Motion: G. Kimball

Second: D. O'Donnell

Discussion: None

Motion passes: 5-YES, 0-NO

COMMUNICATIONS:

1. Preti-Flaherty letter re: short-term rentals.

B. Regan stated it came in through an email from an attorney in Concord stating they represent the New Hampshire Realtors Association. The letter basically was directed to the Thornton Planning Board and identified the Thornton zoning ordinances, etc. He suspects it went to many other cities and towns. In essence, making a case that short term rentals are fully allowable and the Board should refrain from making any regulations or attempt to regulate anything considering that type of thing. We've been asked by the Selectboard and he's been given the task to research whether or not such a thing can be regulated. The letter was shared with our attorney, Matt Serge, and he also disagrees with the attorney. B. Regan stated that they certainly can be regulated; it is just a matter of how you go about it. He wanted the board to have this for informational and background purposes. His thought was that Attorney Serge had given some significant information about the subject, but it's voluminous and, therefore, not printed out, but would like to share it via email and perhaps put this on the agenda for next month for further discussion.

F. Freeman stated he is a realtor, by means of full disclosure, but believes there are two types of situations we are looking at here. If someone occasionally, once in a while, wants to swap houses with somebody in another country, in another state, and does it through that source, that's fine. But for somebody to build a building and go into a business of 100% rentals, he believes that is a separate situation.

B. Regan believes that is what the gist of it is. If it is owner occupied, you can do a lot of things but there are other situations that can put the town in a position of needing to react.

2. United States Post Office (USPS) letter re: development.

B. Regan stated this is an unsolicited letter from the US Postal Service and he suspects it went to every city or town. Essentially they are suggesting that the Board consider them when thinking about approving any future development because people are placing their mail receptacles either inconsistently or not in conformance with what they require. We haven't had any big developments where we've had multiple mail boxes; most of it is up to the homeowner and the postal service. Again, just background information.

REPORTS:

1. Update on former Blake Mt. Motel property.

B. Regan stated about a month ago he, two of the Selectboard members and the town administrator (at another time) had met with a prospective buyer of the property who wanted to redevelop it. At the time we met, in July, he had not closed on the property; there were still some issues pending. Since then he has closed on the property and has actually started cleaning it up. Yesterday the Selectboard approved his application for demolition. The new owner is going to proceed with the redevelopment; he has come in and talked about some conceptual ideas. In Brian's discussions with him, Brian mentioned that a mixed use development might work well because the original owner had a problem – instead of running it as a motel, they ran it as apartments essentially which was in violation of zoning and the Town got involved. B. Regan stated that no one is living there and once the owner gets his permit, he will go forward with it.

F. Freeman inquired what the concept of his redevelopment plan was. B. Regan said his concept is to reconstruct individual units to be sold as 55 and over residential in the back. The owner plans to demolish the two-family house in the front and the garage. He proposes to construct potentially a medical office, a retail store – a convenience type thing, and another retail or commercial from Route 3. It would be a multi-faceted development. B. Regan stated the concept is good; the question is how it meets compliance because he still only has four acres. We've been working with him and reached out to North Country Counsel and some others in the hope of offering such a strategic initiative to see if there are any mechanisms for innovative plan use and/or funding source. It might make sense, if he can get some ideas together as to what could happen there and bring him in and have him show the Board the conceptual drawings.

HEARINGS:

1. APPLICATION TO AMEND PREVIOUSLY APPROVED SITE PLAN - 6:17 pm. Application for Site Plan Review submitted by Horizons Engineering, Inc. on behalf of LCJ Holdings, LLC for the development of a "Maintenance Garage and Cold Storage Building" upon the land located, within the Owl's Nest Resort, off NH Rt. 175, containing approximately 179.5 acres and further identified as Tax Map 16 Lot 01-07, to be amended to include and identify power line relocation and related easement(s).

B. Regan stated the applicants presented a preliminary concept of relocating the power lines on their property a couple of years ago by virtue of a change of easement by agreement and then relocating physically the power lines. The question was asked, it was researched, and it was agreed upon at that time that it would at least be a minimal site plan review, which never occurred. Subsequently the same parcel came before you for the maintenance facility, cold storage, and access to that which was approved conditionally. Subsequently, it came before you again for an amendment to that previously approved plan to reduce the size of the structures and that was approved. This is actually a second amendment to the previously approved plan, essentially to outline the easements and show where the power lines would be relocated and to continue to give the public an opportunity to be advised, be aware, and be heard should they so choose. Hopefully the applicants can shed some light on their position.

J. Warzocha stated he agrees exactly with what Brian represented. They are there basically to answer any questions that would come up about the relocation, whether it be why it was done or any of the details regarding the relocation, the logic, of the power line itself.

F. Gunter stated it is already done. It looks wonderful. It's a large improvement.

C. Stocker stated that was the whole point; to get it out of the way.

L. Hoyt wondered if there was going to be another change or an amendment to where it is going.

C. Stocker stated they have scheduled a hook-up between the 6th and the 11th of October.

J. Warzocha said the old lines are still live right now. As Chad pointed out, until that October date it will remain just as it is and then once they get cut over to the power flowing through the new diverted line, they can go and decommission that and get the existing line out of the way.

B. Regan stated he did receive some input from one of the abutters who, unfortunately, couldn't be here tonight. Steve Mason of Hill Top Road, which is right across Route 175, and has been here previous times for the public hearings and had expressed some concerns even though this was not an issue before the board at the time. One of Steve's concerns was the aesthetics, but, again that is a subjective matter and B. Regan stated he understands his position. B. Regan stated this is not his primary concern. Steve has been in touch with the Public Utilities Commission to find out what the minimum safe distance is from the new location to any surrounding homes, such as his own. He also wondered if there was any consideration by the owners/applicants to consider burying any stretch of the lines that run immediately along Route 175. Steve also asked about the easements, which might be answered by the plans. Steve stated he understands they have not abandoned the existing easement and wondered why this was; "is there an actual easement in place for the new location of the high voltage power lines or did they just install them with the hope to secure a new easement." B. Regan stated his understanding is there is an agreement between Eversource and the owners of the property to transfer the easement location.

C. Stocker stated that once the new one is hooked up; they'll give back the easement for the old one and it will all happen in about the same day.

J. Warzocha said the old easement will not be vacated until the cutover because obviously Eversource still needs to maintain those lines as active until the cutover. There is an executed agreement between Owl's Nest and Eversource for this. That is why the existing easement has not been vacated yet because they have to do the cutover first.

B. Regan asked if there had been any consideration, at any time, about burying the line.

J. Warzocha said that question was asked initially, but burying power lines is extremely costly and there are a lot of logistical issues and he thinks that in discussion with Eversource, Eversource found it perfectly acceptable to relocate them in a similar configuration as exists.

F. Freeman questioned if anything was said about the minimum safe distance. B. Regan said S.

Mason stated he has been in touch with the Public Utilities Commission. B. Regan said he initially reached out to the PUC and to Eversource and never got any response from anybody.

J. Warzocha stated the plans are prepared not by his firm but by another design firm of professional engineers, so basically a licensed engineer produced the design to current design standards and they've been reviewed and accepted by Eversource. Implied in that process is it meets minimum safe distances.

B. Regan stated, for clarification, that what is before the Board is the result of all of his discussions over the course of time about having this matter at least heard so the public can have input. These plans have been in place for quite a while. The idea is that, if accepted as an amendment, these would be considered an additional page or two to the previously approved and amended plan, not in place of the previous plan.

MOTION: "To approve the proposed amendment to the plan as presented to the board this evening, subject to all other requirements of the previously approved Site Plan as amended."

Motion: G. Kimball

Second: F. Gunter

Discussion: None

Motion passes: 5-YES, 0-NO

2. APPLICATION STATUS REVIEW- Site Plan Review-Amy, Charles & Linda Pitman property at 3447 U.S. Rte. 3, Tax Map 6 Lot 5-1, for development/change of use for operating a "boutique" winery, café & gift shop in and upon the property.

B. Regan stated today was the date that the Board set for continuance at the request of the applicants. The Board had originally conditionally approved the plan, but two of the major conditions as of April or May (90 days ago) were not met. One was to have a survey completed and the second was to have the driveway permit. B. Regan stated he has heard nothing from any of the applicants or their representative.

He stated they knew full well that this was extended for that reason. Under the rules, we can only extend for a certain number of days and this is the 90 days so essentially it should be the final. The other day after receiving notice that this was back on the agenda, Mr. Duguay, who is the representative of the family, called and asked for a continuance stating that his father-in-law was one of the owners (applicants) was having surgery and the family needed to be with him; he couldn't be here because he had to mind the kids. Timing is up. B. Regan told Mr. Duguay that he would convey what he wanted to the Board but he could not tell them what they would do. B. Regan requested he send an email outlining what he told Brian. Mr. Duguay said he would but did not and they are not here. B. Regan stated there has been no information forthcoming as to the status of any survey or State DOT agreement, which was all part of what they were supposed to be doing for the last ninety days and prior. He cannot give any further information, but it would be his suggestion if any further continuances are made, it should be short and it should be final.

F. Freeman stated this whole thing that started at least last August has been like climbing a slippery slope. We get halfway up and slip back. A couple of months ago he thought they were almost to the top, and now we are slipping back. What kind of leeway does the Board have from a legal perspective?

F. Freeman asked Is it possible to give them a 30-day, emergency extension; does the Board have that authority? B. Regan suggested it is likely within the Board's discretion because of the circumstances that have been presented. As he explained in May, the statutory provisions are that basically the Board can request the Board of Selectmen to allow that extension of up to 90 days. There is another provision that says the Board can, by agreement, which is when he was here and agreed to extend it and you agreed that it would be limited to 90 days because that is the limit of what the Selectboard could allow. He reminded the Board that there is still a pending matter with the Selectboard that they are operating a business without any approvals and the Selectboard is waiting for this Board's final decision before they act.

F. Freeman said that based on the surgery and an emergency situation that he related to B. Regan, let's give them until next meeting and that is final. If he doesn't have everything in order at that time, then the curtain closes and he has to start over again. B. Regan stated that his recommendation back in May was if the Board wasn't going to extend it, a decision needed to be made one way or another. You cannot have an ongoing, conditional approval that doesn't get met. There has to be a time frame. If a vote is crafted tonight that says we will grant an emergency extension so long as they come in in a month with their survey and everything else.

D. O'Donnell stated the Board will have to make it clear that the approval and the conditions of the approval will expire on that date if they do not appear before us and satisfy the conditions.

MOTION: "That one last 'emergency' continuance be granted and the matter be placed on the agenda for the September 19th regular meeting at which time the applicants shall show that the following conditions have been met:

- **Submittal of final version of the Licensed Land Surveyor's completed Survey in fulfillment of NH DOT notice/request date December 13, 2018.**
- **Submittal of copy of duly issued Driveway Permit (State-Rte. 3 and/or Town-Mirror Lake Road)."**

Motion: F. Freeman

Second: D. O'Donnell

Discussion: None

Motion passes: 5-YES, 0-NO

3. APPLICATION: Zachary Superchi for HOME OCCUPATION as "Gunsmith" at 23 Mitchell Road, Tax Map 10 Lot 09-09, Lot 09-08 and Lot 09-12, pursuant to ARTICLE VIII: D of Thornton's Zoning Ordinance.

B. Regan stated that Zachary Superchi, the applicant, is the son of the property owners. He lives in a structure on that property. B. Regan stated he got a call from an ATF agent saying Mr. Superchi wanted to do this and wanted to know what the Town thought. B. Regan stated that at a minimum if he wanted to open a shop, he is in the right zone but it would require site plan review. If it is just a smaller version of

an operation, not a shop, then a home occupation might suffice and he would be in compliance. Mr. Superchi came into the office immediately and talked with B. Regan. Mr. Superchi brought in a signed letter from him, his mother and father as the property owners. Mr. Superchi outlines the ideas and issues he would be compliant with and they authorized him to utilize the property. In essence what he said and what the ATF person said, he does repairs and basically it would be a limited operation. If he gets his license from them, he can buy parts at wholesale. The ATF suggested they would not issue him a license until the he is compliant with Town regulations.

MOTION: "To accept the applicant's request as being compliant with ARTICLE VIII:D of Thornton's Zoning Ordinance and, as such, permit him to operate his occupation of providing "small firearms repair" from and within the premises now existing at 23 Mitchell Road with the additional condition that Zachary Superchi is, and remains, a resident/occupant of said property."

Motion: F. Gunter

Second: G. Kimball

Discussion: B. Regan said Mr. Superchi stated it would be a very limited operation.

Motion passes: 5-YES, 0-NO

OTHER BUSINESS: None

ADJOURNMENT:

The following motion was made at 7:01 p.m.

MOTION: "To adjourn."

Motion: G. Kimball

Second: L. Hoyt

Discussion: None

Motion passes: 5-YES, 0-NO

Respectfully Submitted,

Brian Regan, Planning Director

Thornton Planning Board Meeting

August 15, 2019

6:00 p.m.

Sign-in Sheet

PLEASE **PRINT** YOUR **NAME** **AND** **ADDRESS**.

Thank you!

	Name	Address
1.	Dick & Sandy Linck	52 Edgewater Lane, Thornton
2.	Jim Warrack	34 School St. Littleton, CO
3.	Chad	Dupuis Construction, VT
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