

TOWN OF THORNTON PLANNING BOARD

Approved on: 2/20/2020
PB Initials: [Signature]
Rec'd by Town Clerk on: 2/24/2020
Town Clerk Initials: apm

Planning Board Meeting Minutes Thursday, January 16, 2020

CALL TO ORDER – SALUTE TO THE FLAG:

Chairman S. Babin called the meeting to order and led the Pledge of Allegiance at 6:00 p.m.

ROLL CALL:

Members present: S. Babin, F. Freeman, L. Hoyt, P. Laufenberg, D. O'Donnell
Alternates present: J. Piehn, C. Schofield, G. Kimball
Members/Alternates absent: B. Dutto, F. Gunter, R. Sabourn

Chairman S. Babin acknowledged that a quorum was present, there being five (5) members in attendance. He then appointed Alternate J. Piehn to sit for the evening in place of absent Member B. Dutto and noted no Alternate had been designated by the BOS to sit for the evening in place of absent Ex-Officio Member R. Sabourn.

Others present: Brian Regan, Deb & Billy Doucette, Tom DeMatteo, Art Marks, Karen Florio, Marlene Rivers, David Rivers, Vincent DiMartino, Jay Diman, Josh Lemmon, Michael Harris, Kathy Harris, Melissa Levin, Doug & Kristen Frank, Owen Franklin, Randi Mackay, Chris Gowen, John Gabbeitt, Leslie Fox, Karen Walsh, Charles Rowley, Mike Hering, Wayne Charron, Debbie Engelhardt, Darlene King-Jennings

S. Babin offered some opening remarks considering the large amount of people in attendance. He stated he would clarify zoning as he believes there is some confusion about the way zoning works. In the Town of Thornton, if something actually doesn't reside in our zoning regulation, it is essentially considered not allowed. However, we all know that things occur that are not necessarily allowed. Later in the evening we will talk about including language about something that may or may not already be occurring. This is not to suggest that we want to necessarily change anything but it does allow us to recognize the existence of certain things. Our zoning, without having the wording in it, we essentially have no means to openly discuss it. If it is not in zoning, our zoning says you are not allowed to do it and you must come before us. Often this is not the case.

APPROVAL OF MINUTES:

1. Upon distribution and review of the meeting minutes of December 19, 2019, the members took the following action:

MOTION: "To accept and approve the Minutes of the Thursday, December 19, 2019 meeting as amended."

Motion: P. Laufenberg

Second: J. Piehn

Discussion: B. Regan stated he had received some minor input and the final version is presented as amended.

Motion passes: 4-YES, 0-NO, 2 Abstain (S. Babin, L. Hoyt)

PRELIMINARY BUSINESS: None

COMMUNICATIONS:

1. Letter from Cristopher R. Gowen regarding short-term rentals in residential neighborhoods.

B. Regan noted the letter was directed to his office and he submitted it to the Board.

REPORTS: None

UNFINISHED BUSINESS:

HEARINGS:

1. PUBLIC HEARING - 6:15 pm Proposed Zoning Ordinance Amendments to the following articles:

ARTICLE II: DEFINITIONS (add "Short-Term Residential Rental") where Short-Term Residential Rental means any transient occupancy of a dwelling unit or any portion thereof under a written or unwritten lease, license or agreement for a term of thirty (30) days or less.

S.Babin noted in the Article will be the Table of Uses including the six zoning districts we have; the footnote on each of the districts will be subject to applicable short-term residential regulations as adopted and as amended.

ARTICLE IV: TABLE OF USES (add "Short-Term Residential Rental" & Footnote 7.)

ARTICLE V: PERMITTED USES IN VARIOUS ZONES (amend to clarify item 11.)

The Planning Board shall have the authority to adopt regulations relative to Short-Term Residential Rental of dwellings having non-resident owner(s).

P. Laufenberg requested clarification, noting the conversation of the last meeting regarding removing from the statement "having non-resident owner(s)" which is noted in the minutes.

Current Version, under A, Chapter 11: Renting of rooms and furnishing of table board to resident guests in private family dwellings. This version, with the recommended changes, will read: Renting of rooms and furnishing of board in private, owner occupied, family dwellings to resident guests on a long-term or short-term basis.

ARTICLE XV: FLOOD PLAIN-SECTION IX: SPECIAL FLOOD HAZARD AREAS
(amend to add language requested by NH OSI)

In Zone A the compliance officer shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site plan approvals).

Version with recommended changes will read: In Zone A the compliance officer shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site plan approvals). Where a 100-year flood elevation is not available or not known, the 100-year flood elevation shall be determined to be at least two (2) feet above the highest adjacent grade.

S. Babin asked if anyone wished to speak in opposition.

F. Freeman noted that our main purpose in this exercise is two-fold: to introduce the concept of short-term rentals to the zoning ordinance because short-term rentals are not allowed in the Town of Thornton and to authorize the Town in the form of the Planning Board to adopt regulations that may apply to short-term rentals.

Kathy Harris stated she is a resident of Thornton and owns All Mountain Rentals and has been renting vacation rentals for over twenty years. She feels with Air BnB making it easier for owners to rent on their own, it's come to a lot of these types of hearings and changes to vacation rentals. In her experience, she stated about half a percent of her clients have issues. Most people respect renting other people houses. Most of the issues are covered by laws we already have, such as the noise ordinance. Clients are told they can call the police if there is an issue, just as they would if they were a residence of a home. She noted that many homes are second homes and people purchase homes with the intention of renting. This area is a resort area making it important to note restrictions to vacation rentals will hurt property owners, change house values, hurt small businesses and have a negative effect financially on the Town.

P. Laufenberg clarified that K. Harris was in charge of rentals – property owners go through her to rent their properties; therefore she takes care of the problems that arise from renting these properties. He stated this proposal will just put the definitions into the zoning ordinance – nothing limits the rental abilities at this point – and noted there is a very narrow and very specific area where there is an issue and that is where there is not an individual like her or any other realtor there as a middleman to deal with situations. There are people who rent out their properties independently and it is unclear who to call in those circumstances. He reiterated that in this proposal there is no discussion of banning anything.

S. Babin stated that since our zoning is inclusive and we failed to include this in the zoning, essentially we, as a Town, do not recognize it. This proposal is partly to clean up failed zoning regulations in the past. He noted that we are not restricting any of it; we are trying to actually acknowledge that this is an activity that is taking place.

K. Harris questioned the wording “family dwellings to resident guests”.

F. Freeman stated someone could have a rooming house and rent a room to someone who lives there full-time. He noted the Board's concern at the current time is not with the business she does; our concern is not to restrict short-term rentals. Our concern is to recognize short-term rentals, how they rent and who's responsible for administering and managing the rental.

L. Fox stated she did not clearly understand why, the way things are set up now, no one is allowed to do short-term rentals and wondered how the guidelines addressed full-time rentals.

S. Babin stated that prior to zoning in the state of New Hampshire; there were no rules and regulations. In order to address the idea of making zoning regulations in towns, towns were allowed to make up all the rules at once or state that nothing is allowed unless it is in the zoning. In order for towns to manage maintaining property values, we have an inclusive zoning – if it's not in the zoning, it is really not allowed. However, we are not enforcing these things that are not allowed. The Board is beginning to have a lot of interaction from people in the Town wondering what we as a Town can do to help them address their concerns about specific issues with non-owner occupied rentals. Since this is not in the zoning, we cannot address this.

L. Fox feels ordinances are in place and wondered what happened in the past year when a complaint was received.

S. Babin stated this Board would not know about those complaints; the Select Board would know about them.

L. Fox thought it would be good to evaluate whether things were being enforced.

S. Babin stated we are the Board that makes the regulations for the property that the house sits on that's being rented.

F. Freeman added it was suggested to us by the people who get involved daily in these incidents that this is an issue that the Town should look into.

P. Laufenberg noted that the Board of Selectmen asked this Board to take this issue on as they have had issues with it and it is not under their purview to do land use issues. As we looked into it, we realized our zoning didn't even allow it. Therefore, our first step is putting short-term rentals into our zoning ordinance so that it is allowable so that we can have a conversation about it. Ultimately, it goes out in March and the Town has to decide whether they want to put it in the zoning ordinance or not.

L. Fox stated she is uncomfortable with the Planning Board looking to have the authority to adopt the regulations without any input from anyone.

S. Babin stated that the process we are doing has to occur every single time a change is made.

P. Laufenberg noted that if the Planning Board was going to do that, it is beneficial for us to include the folks in this room, especially some of the realtors, in the development of any sort of regulation as most of us don't have that expertise. He reiterated that anything we do has to go through a hearing process.

F. Freeman stated that the business of this Board is equally as much in promoting short-term rentals as it is in restricting them. We are not here against short-term rentals. We want to make sure that there is something in place for a short-term rental that gets out of hand and no one is around that manages it that the Town has some authority.

Jay Diman stated he owns a property that is managed by K. Harris. He stated he is in favor of having voters vote to put the language in the zoning ordinance. He stated his family has stopped coming up on weekends for the past three years. He had the opportunity to rent the house and wants to continue to do so. He understands from the conversation that it is not the Board's desire to restrict having short-term rentals, but to have the ability to have it be part of the zoning in order to discuss it.

Wayne Charron stated he understands what is being said. He stated we have a chance to mold how we want the Town to go forward.

S. Babin stated, for clarification, that we are going to put on the warrant article this wording, and based on the meeting had here, we are going to decide whether or not we as a Board suggest to the people of the Town of Thornton to vote in favor or against putting it into the zoning regulations. He asked W. Charron if he was in favor of the Board suggesting to the people of the Town of Thornton that they should have this included in the zoning regulations.

W. Charron stated he was but he thought the explanation could be better, to which others in the audience agreed.

S. Babin stated once it is in, we have a heading to then build that verbiage.

W. Charron reiterated that it is very important that what the townspeople are voting for is written clearly.

Audience members shared the concern that the way it is written allows the Board to make all the regulations without any input. Looking at it from the outside, it does appear that the Board has all the control and the owners have none. Clearer verbiage might be in order.

S. Babin clarified that since this has been posted, we can only make minor adjustments.

F. Freeman noted that regulations adopted by this Board are subject to public hearing.

P. Laufenberg suggested that, with articles that aren't clear, the Board would write an explanation of what that Warrant meant. This might be worth it – leave the verbiage in here, vague in the way it is, but provide an explanation to the voters.

B. Regan stated these matters, if passed this evening, will be on the election ballot. At the time of vote we can present an informative document.

S. Babin noted most people in the room are in favor of us saying we will put in the motion a document explaining the process. There will be no regulations put in, just these words.

David Rivers stated he is not anti-business and loves prosperity. He sees many people here in business and are profiting from this new technology, Air Bnb. From an owner's perspective of a home that's next door to a short-term rental who's owner is absent, it's surprising to find out what is going on next door.

P. Laufenberg noted the issue with short-term rentals in the Town of Thornton is small and deals with neighborhoods where you have an owner that is absent from the property not allowing for follow-ups to problems with the property.

D. Rivers stated not knowing who will be in the property from one weekend to the next is destroying his quality of life. It has been extremely disruptive to have people in the rental unsupervised; noting it has been upwards of 10% of the tenants that have been a huge problem for him. He stated he supports regulations as long as they are approved and everyone is happy with them.

Kristin Franklin stated she understood the current version of the wording, but questioned the "owner occupied" on the recommended version, noting that part made her uncomfortable and asked for clarification.

S. Babin stated under Article V in the zoning regulations, we are going to add "the Planning Board shall have the authority to adopt regulations relative to short-term residential rental of dwellings." We inappropriately included the words "having non-resident owners". That has been crossed off. Secondly, under paragraph A-11 currently in the zoning regulation we have written "renting of rooms and furnishing of table board to resident guests in private family dwellings."

That definition was incomplete and we are putting in the definition “renting of rooms and furnishing of board in private, owner occupied, family dwellings to resident guests on a long-term or short-term basis”.

P. Laufenberg reiterated that by putting “owner occupied” in the zoning ordinance, it now allows that rental.

D. O'Donnell noted the Board is treating two separate issues. Originally in the zoning was geared to something like a boarding house. We were trying to clarify that line. We are addressing the short-term rentals as different and that could be either owner- or non-owner occupied.

K. Franklin and several others still questioned the wording and the affects “owner occupied” has on this matter; noting there are a lot of Air BnBs where the owners are not actually occupying the residence.

F. Freeman noted A-11 was something that was written that allowed boarding houses. The short-term rental we are permitting is allowed in all zones – it does not specify that short-term rentals have to be owner occupied, which is not our intent.

P. Laufenberg stated written in the current version was the only piece that could be connected to short-term rentals. We determined that would not be enough for 2019 – 2020. Most people are renting out their house that is not owner occupied. To include the owner occupied situation, the new A-11 was redefined and made into two different sections as opposed to one new sentence that covered everything.

Discussion over placement of commas in recommended version and how it caused confusion in the meaning of the sentence. It was recommended that a semi-colon could be used for clarification allowing the sentence to read: renting of rooms and furnishing of board in; private, owner occupied, family dwellings, to resident guests on a long-term or short-term basis.

Vincent DiMartino wondered if there was any way to collect taxes for the Town; are they registered allowing some control of those registrations; and how does this affect the transfer station given all the rentals in the Town.

P. Laufenberg noted we cannot have these conversations if this definition isn't in the zoning ordinance.

MOTION: “To recommend to the Select Board the proposed change to Article II, Definitions in that the short-term residential rentals definition be considered for addition to the Zoning Ordinance and included on the Town Ballot for vote.”

Motion: F. Freeman

Second: P. Laufenberg

Discussion: None

Motion passés: 6-YES, 0-NO

MOTION: “To recommend to the Select Board the proposed change to Article IV, Table of Uses; that the short-term residential rentals use and footnote explanation 7 be considered for addition to the Zoning Ordinance and included on the Town Ballot for vote.”

Motion: P. Laufenberg

Second: F. Freeman

Discussion: None

Motion passes: 6-YES, 0-NO

MOTION: "To recommend to the Select Board the proposed changes to Article V, Permitted Uses in Various Zones as presented and amended, be considered for addition to the Zoning Ordinance and included on the Town Ballot for vote to include removal of the words 'having non-resident owner(s)' in the first paragraph and the addition of the semi-colon in item A. 11."

Motion: J. Piehn

Second: P. Laufenberg

Discussion: None

Motion passes: 6-YES, 0-NO

MOTION: "To recommend to the Select Board the proposed changes to Article XV, Section IX, Special Flood Hazard Areas as presented, to be considered for addition to the Zoning Ordinance and included on the Town Ballot for vote."

Motion: F. Freeman

Second: D. O'Donnell

Discussion: None

Motion passes: 6-YES, 0-NO

3. PUBLIC HEARING – 6:40 pm Petitioned Zoning Map Amendment (Country Acres-Phases I-IV, Upper Tecumseh View and Lower Tecumseh View).

B. Regan stated before the Board is a copy of a memo he drafted and sent to the Town Clerk after last month's meeting. It covers a petition and supporting documentation also submitted at last month's meeting seeking potential re-zoning of an area off of Route 3. The Board considered it, acknowledged it, accepted it and passed it on to the Clerk for inclusion in the Town Warrant. At the time, it wasn't realized that there was an earlier deadline for submission of petition to Warrant Articles – we missed the deadline by a few days. It will not be brought forward to Town Warrant this year. In addition, since it affected less than one hundred properties, each and every property owner would have had to been notified in advance of the meeting here tonight. For a number of reasons, we felt the matter should not be brought forward this year. It is in the best interest of the Town and the petitioners to not bring this forward.

P. Laufenberg affirmed that going forward with such a limited amount of time might not have come across well. It can now be used as part of the larger conversation for this next year as the Planning Board tackles some of the zoning issues in the Town. There are a lot of neighborhoods that are clearly residential that are zoned in commercial. For the people not involved with the board, they would not be aware of this. Hopefully then for then 2021 Warrant, there are recommendations that will come from this Board on how to tighten and modernize things, noting that most of these zoned areas were set in place in the 70s.

MOTION: "That this board table indefinitely the Petition for Country Acres, Phases I-IV, Upper Tecumseh and Lower Tecumseh View."

Motion: P. Laufenberg

Second: J. Piehn

Discussion: None

Motion passes: 4-YES, 0-NO, 2 Abstain (P. Laufenberg, J. Piehn)

OTHER BUSINESS: None

ADJOURNMENT:

The following motion was made at 7:27 p.m.

MOTION: "To adjourn."

Motion: D. O'Donnell

Second: L. Hoyt

Discussion: None

Motion passes: 6-YES, 0-NO

Respectfully Submitted,

Brian Regan, Planning Director

Thornton Planning Board Meeting

January 16, 2020

6:00 p.m.

Sign-in Sheet

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

Thank you!

	Name	Address
1.	<u>Bob & Betty Donnell</u>	<u>50 Edgewater Ln, Thornton</u>
2.	<u>Tom DeMattee</u>	<u>5 Linde Dr. Thornton</u>
3.	<u>KRT MARKS</u>	<u>22 PORCUPINE WATERVILLE ESTATES</u>
4.	<u>Karen Florio</u>	<u>95W SPUR Rd THORNTON NH 03221</u>
5.	<u>MARLENE RIVERS</u>	<u>50 MILL BROOK RD THORNTON</u>
6.	<u>DAVID RIVERS</u>	<u>50 MILL BROOK RD THORNTON</u>
7.	<u>Vincent DiMartino</u>	<u>54 WATERHORN RD, THORNTON</u>
8.	<u>JAY DIMIAN</u>	<u>41 Welch View Dr, Thornton</u>
9.	<u>Josh Gannon</u>	<u>150 Woodlands Dr, Thornton</u>
10.	<u>Michael Harris</u>	
11.	<u>Kathy Harris</u>	<u>150 Woodlands Dr Thornton</u>
12.	<u>Melissa Jain</u>	<u>9 Davies Dr. Thornton</u>
13.	<u>Doug & Krista Frank</u>	<u>PO box 117 Campton</u>
14.	<u>EWEN FRANKED</u>	<u>90 CENTENNIAL WAY</u>
15.	<u>Randi Mackay</u>	<u>383 Mill Brook Rd, Thornton</u>
16.	<u>Chris Gowen</u>	<u>26 Diamond Ledge Road</u>

17. John Cabbett 34 Tuxelle Rd Thornton
18. LESLIE Fox 878 Rt 49 Thornton
19. Karen Walsh 506 Upper Mad River
20. Charles Rowley 11 Edgewater Lane
21. Mike Harris 2320 Perimeter Ct Thornton
22. Wayne Chasen 10 Sores Rd
23. Debbie Engelhardt 15 Bear Ridge Rd
24. Darlene King Jensen 57 King Canyon
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