

# TOWN OF THORNTON PLANNING BOARD

Approved on: 8/15/19  
PB Initials: REO  
Rec'd by Town Clerk on: 8/26/19  
Town Clerk Initials: djm

## Planning Board Meeting Minutes Thursday July 18, 2019

### CALL TO ORDER – SALUTE TO THE FLAG:

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, R. Sabourn

Alternates present: F. Gunter, G. Kimball, C. Schofield, J. Piehn

Members/Alternates absent: B. Dutto, D. O'Donnell

Chairman S. Babin acknowledged that a quorum was present, there being five (5) Members present. He then appointed Alternate G. Kimball to sit in place of absent Member B. Dutto and Alternate J. Piehn to sit in place of absent Member D. O'Donnell for the evening's meeting.

Others present: Brian Regan, Alisha Hale, Taylor Kruse, Wayne Murphy, Brad McCoil, Cathy Conway, Marc Burnell, Scott Dupuis, Chad Stocker, Tom DeMatteo, Karen Florio, Jim Adelman, Dick & Sandy Linck, Sara Holland, Steve Mason,

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**APPROVAL OF MINUTES:** Upon distribution and review of the meeting minutes of June 20, 2019, the members took the following action:

**MOTION: "To accept and approve the Minutes of the Thursday, June 20, 2019 meeting as amended."**

Motion: P. Laufenberg

Second: G. Kimball

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

Motion passes: 5-YES, 0-NO, 2-Abstain (F. Freeman, J. Piehn)

### PRELIMINARY BUSINESS:

1. Signing of revised site plan of LCJ Holdings, LLC for Maintenance Facility project at NH Rt.175.

B. Regan noted that applicant was here last month and asked for a revision for a previously approved plan and board voted to accept and approve the requested amendment to the plan which is before you; three pages changed that basically addressed the size of the buildings to be constructed at the maintenance facility. He drafted the notice of decision as well as the plan which should be signed and kept on record. Since P. Laufenberg was acting chair at that meeting, it will need his signature.

2. Signing revised NOD for Smitty's Heavy Duty Diesel Repair, LLC.

B. Regan noted that the matter was heard and approved and subsequently Mr. Smith has gone forward and got a Zoning Compliance Application (ZCA) approved in moving forward with this project. When he wrote the original notice of decision, there had been some discussion at the meeting about a driveway permit. Mr. Smith had shown on the plan an existing driveway and also access through another person's property. He ultimately questioned that and, it turns out, after contacting the road agent and others, it seems that that's a private road and technically no permit can be or is usually

given for that. Therefore, B. Regan revised the notice of decision to extract a condition that said Mr. Smith would obtain a necessary or valid driveway permit.

J. Piehn asked if the owner of the private road has any say in this. B. Regan stated the owners all have an agreement to maintain that road which was referenced in the deed, which was submitted with the application.

**COMMUNICATIONS:** None

**REPORTS:**

1. B. Regan-Update on Caulder Excavation Pit reclamation matter.

B. Regan stated one of the previously approved excavation sites in town was a permit given to the Caulder Construction, Casey Caulder and his brother, for a property on LaBreque Road. Several months ago we found that the permit had expired a year ago – last July. We contacted them and they stated they were going to re-apply and come in this year for a new application. They had not filed by the time that would be appropriate to get it done for this month or last month. In the meantime we received a letter from the insurer holding the bond that stated the bond was going to expire on June 22<sup>nd</sup>. The applicant hadn't come forward; the bond was about to expire, and there was no evidence or contact from them about reclamation and what condition the property was, or what they did or didn't do to complete the project.

B. Regan stated he took some action through the Board of Selectmen and issued a letter to the insurer and their agent to call the bond or at least make a claim for the value so that if the Town got stuck repairing the property, we would have something to fall back on. It turns out it was not a reclamation bond they had submitted; it was a license and permit bond which basically can expire or terminate. A reclamation bond cannot. So there was some confusion about it all. The bottom line is the insurer has acknowledged that we have filed a valid claim, timely, and will be working with the Caulders to try and resolve the reclamation to the satisfaction of the board.

2. B. Regan-Update on Blake Mt. Motel property

B. Regan stated we have been approached by a prospective buyer who is seeking to develop the property in a fashion that is compliant with zoning and acceptable to the town. We have met with the gentleman a couple of times. He seems like a very viable and valid developer and hopefully he can complete the process and move forward with it. We have been working with him to get something going there to improve the property. It has been noted that it has been non-compliant as being rented full-time as apartments instead of as a motel. Hopefully, that can be resolved and you will be kept updated. It was supposed to have closed as of the 16<sup>th</sup>, but that has not yet happened. Perhaps there was an extension. We're hopeful that will go through and back in with some proposals that the town will be happy with.

**UNFINISHED BUSINESS:** None

**HEARINGS:**

**1. APPLICATION/PUBLIC HEARING - 6:15 pm: (Continued from June 20, 2019) Application for Site Plan Review submitted by Horizons Engineering, Inc. on behalf of LCJ Holdings, LLC for the development of a "Lake and Road Extension" upon the land located within the Owl's Nest Resort, off NH Rt. 175, containing approximately 180 acres +/- and further identified as Tax Map 16 Lots 01-07, 01-05 and 0107-MDCO.**

S. Babin read the forgoing and re-opened the public hearing at 6:15 pm.

Cathy Conway introduced herself as an engineer with Horizons Engineering. She introduced Mark Burnell, one of her colleagues, Chad Stocker and Scott Dupuis with Dupuis Construction, General Manager

Brad McCoil Owl's Nest's GM and Wayne Murphy who is a representative of the LCJ Holdings, LLC the property owner. She then said, since the last meeting they haven't made any revisions to the plan since many questions had come up about the lake.

P. Laufenberg stated that essentially the meeting had been tabled since many questions had not been satisfactorily answered for the folks that were there or for the board and he felt we could start addressing those questions.

C. Conway stated the purpose of the packet was to briefly try and highlight some answers to the questions.

S. Babin asked for clarification regarding the reference that this was off of Route 175 but there was no public access to the Owl's Nest from Route 175 in Thornton.

B. Regan stated there was not but the plan shows the access from Campton.

C. Conway stated one of the questions was the volume of the lake and where they were going to get the water. She said it was about 30 million gallons; it's a 9.5 acre lake and about nine feet at its deepest. Just a little bit of background:

Currently the golf course has an irrigation system that draws water from two ponds that are adjacent to the Pemi. That's the same source they are planning to use for filling of the pond. Their plan is to actually do the filling next spring during high water time. It will probably take about sixty days to fill that pond if they utilize those sources using about half the capacity that's available for the irrigation system. She stated there were some questions about whether they needed to have some registration with DES. Those current withdrawals for the irrigation system are registered. They have one from the existing golf ponds, registration #20635-01, and one from the Pemi directly, registration #20635-02. That system has been in place and in operation since 1996. They have spoken with DES about the proposed lake, about their plan on how they are planning to complete the withdrawal. DES is supportive of their plan. Again, during high flow, they will only be taking about 0.4% of the river flow. There is really not a huge impact on any aquatic life or the total flow of the river.

S. Babin had a general question on the golf irrigation system that's been in operation since 1996. He wondered if the permit was in perpetuity if you got something like that; is there a length of time that is given? C. Conway stated that there were some new rules adopted by DES in 1998, so preexisting systems were grandfathered which is fairly typical of how DES operates. S. Babin reiterated that once you have one in place, essentially you have this in perpetuity with the property being a golf course. C. Conway stated that is her understanding and that it is a permanent in perpetuity that goes with the property.

R. Sabourn commented that C. Conway stated a nine-foot depth but the paperwork said 15 feet on the depth of the lake. The correct depth is 15 feet. R. Sabourn stated he had another follow up on a concern regarding if they were going to be taking ground water. There was talk about a "rubber bladder" to make things simple. He wondered if they had done borings and test pits to make sure they weren't going to be in ledge. C. Conway stated they were planning on lining the lake. R. Sabourn wondered if they knew how deep the ledge was and/or the water table at the site for the lake. C. Stocker stated they were already almost to the depth now and there are borings there; there is no ledge that we can find.

Steve Mason from Hilltop Road in Thornton had a question about the replenishment. He stated that they mentioned they were going to be using the irrigation system to fill it and he wondered if the new lake was going to be strictly recreational to which C. Conway stated it would be. S. Mason wondered if the surface water security certificate they have carries over to the recreational lake. C. Conway stated that registered withdrawal allows them to withdraw a certain volume of water. By taking 60 days to fill the pond, they are not going over that limit. In fact, they are only taking about half of the capacity that is available to pull from that irrigation system. By taking the water slowly, they are within the required limit. DES does allow intermittent water withdrawals from surface water, which is what they will be doing. S. Mason clarified that DES said the surface water quality assessment that was done to assign that withdrawal from the river certificate is for replenishing of a recreational lake – that is okay? C. Conway stated the withdrawal was approved in 1996. There were new regulations adopted in 1998. The registered

withdrawal does not specify what the water is used for; it specifies the volume. Just to be sure, that is why they checked with DES. It's always been used for irrigation but now they want to use it to fill a pond. They had the conversation with DES to make sure they were covered for what they wanted to do. She can get the names of the contacts at DES for the board. S. Mason just wants to clarify if DES approved the use of those irrigation ponds for the recreational lake. C. Conway reiterated that based on the intermittent withdrawal there is no permit approval process.

S. Babin stated it appears you can remove intermittent water withdrawn from surface waters for the use of recreational use if you are a landowner that is abutting a river provided that you don't cause any damage or perceived damage.

J. Piehn asked that once the pond is filled, what requirements need to be met for keeping the water safe for public use. C. Conway responded that during construction there is a stormwater pollution prevention plan. During construction that is what they will monitor during rain events and whatever else to make sure they are not degrading the quality of any water. After construction, this project was large enough that they needed to get an alteration of terrain permit which has requirements in it for the treatment of water through some treatment swales, infiltration basins, all sorts of best management practices to make sure that the water is of good quality. To take that a step further, if this lake is used for public bathing there is a state DES permit that is required for public bathing and part of that permit will require a recirculation or a circulation plan to make sure that it meets certain standards. She assumes there will also be regular testing like there would be with any other swimming place. There are two levels. There is the general overall water quality and then there is a second level for public bathing facilities.

S. Babin asked if their intent was to have it open for a public bathing, for use as a swimming area.

B. McCoil stated it would only be through membership and for resort guests.

S. Babin stated it would be private; people within the Owl's Nest would use it.

S. Babin asked further if the maintenance program and the testing would need to be delivered to the state on a periodic basis. Scott Dupuis, president of Dupuis Construction, consulted with lake management companies that do this professionally. He stated there would be requirements through them to maintain water quality where they would come in bi-weekly or monthly to do water quality tests depending on what they started with essentially in the lake. There are treatment plans and adjustments that are made to maintain the quality of the lake to make sure that it does not become a problem.

R. Sabourn wondered if they anticipate a recirculation issue if it isn't for bathing just to keep the water fresh and, if so, how they would treat that and where it would go.

S. Dupuis stated it is not believed that there will be any issues.

R. Sabourn also asked in case of a stormwater event, would the excess water go into their storm drain system and was told it would and then get reintroduced back into the Pemi.

S. Dupuis stated this is a controlled introduction and is all permitted through the state. They have other basins that will actually absorb during a flood stage. There are dry basins that will absorb an overflow of water so that there isn't so much introduced back into the river or into the watershed that's going to create increased water conditions.

P. Laufenberg asked if a decision had been made on whether or not it would be made for public swimming. He was told by W. Murphy, if he had to answer that today, the answer would be yes.

P. Laufenberg continued with, if the decision was to not make it for public bathing, then the pond is just a pond and will there be any sort of circulation. C. Conway stated either way they will be getting aerators and it will just matter the level of aeration and circulation that is done.

J. Piehn wondered if the pond was not going to be used for swimming, would it be used for other activities such as kayaking or boating; would it be large enough.

W. Murphy stated he thought kayaking was conceivable given the size of the lake; paddleboards and those kinds of things.

B. Regan wanted to offer some clarification on public bathing. From my understanding, if you are going to allow bathing in the pond, there are state regulations that need to be met. Public bathing is probably used in that context. He doesn't believe it's being used to mean "open to public".

W. Murphy, concurred.

P. Laufenberg wondered, from previous conversations, if there will be a change from the main entrance of Owl's Nest to the other one further down Owl Street. S. Dupuis stated that the entrance that is just one hundred yards down is going to become the main entrance. Both will be accessible entrances.

P. Laufenberg wondered if they had talked to Campton regarding this, considering you now have two cut-ins within a hundred feet of each other going into Owl's Nest. C. Stocker stated it was not a Campton driveway permit. They got the permit from DOT and it was dropped off this morning; Campton is aware of the permit. He did talk to Carina in the Campton town office and she directed him to NHDOT for the permit.

P. Laufenberg verified that both of these were entrances.

S. Dupuis stated the old entrance would be considered the existing homeowners' entrance and the new entrance would be for Owl's Nest guests.

S. Babin said it sounds like the existing entrance would be improved and the homeowners would have their choice.

J. Piehn wondered how they would be addressing from Route 175 side of Owl's Nest to not have trespassers come in to the lake area.

C. Stocker stated there would be signage at the maintenance facility to prohibit public access through that side. The maintenance facility is going to be occupied from four in the morning until eight at night. It was noted that there is a gate at the maintenance facility to stop traffic at that point.

R. Sabourn wondered if the town of Campton had been involved in any of these discussions considering their major entrance into this facility is not in the town of Thornton. He feels the Campton Planning Board should be a part of this discussion since they will be introducing more traffic on this state highway.

C. Conway stated they were directed by Carina in the town of Campton to obtain the DOT permit which is basically what they requested.

R. Sabourn reiterated that he feels the Campton Planning Board should be approached given that they are building a new road in the town of Campton for a private development and they should be a part of this discussion.

B. Regan said that, if it were here, the development of the road from there to Thornton would be subject to site plan review at a minimum.

S. Babin stated he felt it would be appropriate for this planning board to send a letter to the planning board in Campton letting them know that we have this in front of us. This planning board has an obligation to that planning board.

B. Regan shared that there were particular abutters with this application that were in Campton and were notified. Some of them were here last month. The majority of the property across from this entrance is LCJ property. Again, it's a development within their town; we can give them a courtesy notice. They should be interested in what's happening between their road and Thornton.

S. Dupuis noted there was already an existing permit for access there as there was already a road cut in.

P. Laufenberg noted that the planning board assistant in Campton was out on medical leave; correspondence should go to Carina, the town administrator, directly so that it is received in a timely manner.

B. Regan stated this application was brought forth in May initially for discussion purposes. It was at that time reviewed, the checklist was reviewed, and the application was accepted as complete. The public hearing was scheduled for June 20<sup>th</sup>. Questions came up that evening which caused the matter to be continued to this evening for further discussion. It already has been accepted as complete.

Having closed the public hearing S. Babin asked what were the wishes of the board.

**MOTION: "The board consider approving the application for the development of a lake the road and extension at Owl's Nest Resort".**

Discussion: R. Sabourn recommends at least getting some notification from the town of Campton that they do not have an issue with this plan. This should be a condition of approval.

**AMENDED MOTION: "The board consider approving the application for the development of the road and lake extension at Owl's Nest Resort contingent upon the acknowledgment by Campton that they have no objections and are in receipt of the same plan".**

S. Dupuis wondered, since that other entrance is not a mandatory requirement for access into Owl's Nest, could the motion be amended to say that you would approve work within the town of Thornton, not including the entrance into Campton?

**FURTHER AMENDED MOTION: "MOTION: I move that the board approve to this application for a non-residential Site Plan submitted by Horizon's Engineering, Inc. as agent for property owner LCJ Holdings, LLC for the development of a "Lake" and "Road Extensions" upon the land located, within the Owl's Nest Resort, and further identified as Tax Map 16 Lot 01-07, 01-07-02, 01-07-03, 01-08 and 0107-MDCO. All as depicted on the final plan set submitted. Approval is conditioned on the following:**

1. Applicant gives notice of the project to the Town of Campton and presents documentation of same to the Town of Thornton.
2. Applicant delivers fees necessary for recording at the Grafton County Registry of deeds."

Motion: F. Freeman

Second: G. Kimball

Discussion: None

Motion passes: 7-YES, 0-NO

**2. APPLICATION: Kruse Elite, LLC by Taylor Kruse and Alisha Hale for HOME OCCUPATION at 50 Chickenboro Road, Tax Map 17 Lot 11-03, pursuant to ARTICLE VIII: D of Thornton's Zoning Ordinance.**

S. Babin read the forgoing and opened the matter for consideration at 6:55 p.m.

B. Regan advised the board that the application was before them for consideration; the application was complete, very thorough and professionally completed.

S. Babin verified from their application that they take one-on-one training sessions and one-on-one acupuncture sessions and that both applicants are practitioners, which they confirmed. He inquired if it was possible that, at any time, they might have up to three clients waiting.

A. Hale stated that probably not, as most of their business was done on-line and most of their sessions were done virtually. In person actual business would never be more than about five sessions a week.

S. Babin indicated that this would translate to about five automobiles visits to their home within a week. They do not plan to have a sign. It will be by appointment only and by referrals; no signage.

B. Regan stated he has email correspondence with Ms. Hale about the signage issue and if they intend to do it in the future, she has full knowledge of what is necessary.

B. Regan noted that the applicants are leasing the property so any approval should be subject to the term of their occupancy.

**MOTION: "To accept the applicant's request as being compliant with ARTICLE VIII: D of Thornton's Zoning Ordinance and, as such, permit them to operate their occupation of providing Health, Wellness, Personal Training and Acupuncture from and within the premises now existing at Tax Map 17 Lot 11-03 located at 50 Chickenboro Road with the additional condition that Taylor Kruse and/or Alisha Hale is/are the principal occupants of said property."**

Motion: F. Freeman

Second: J. Piehn

Discussion: None

Motion passes: 7-YES, 0-NO

**OTHER BUSINESS: None**

**ADJOURNMENT:**

The following motion was made at 7:15 p.m.

**MOTION: "To adjourn."**

Motion: G. Kimball

Second: P. Laufenberg  
Discussion: None  
Motion passes: 7-YES, 0-NO

Respectfully Submitted,  
*Brian Regan*, Planning Director

# Thornton Planning Board Meeting

## July 18, 2019

6:00 p.m.

### Sign-in Sheet

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

Thank you!

	Name	Address
1.	Alyssa Hale	50 Chickenbar Rd.
2.	Taylor Kruse	50 Chickenbar Rd
3.	Karen Howard	9 SW SPUR RD
4.	Jim Adelman	9 SW SPUR RD
5.	Pick Sandy Hinch	52 Edge Water Lane,
6.	Sara Holland	—
7.	Tan Kematter	S Linkside Dr
8.	B.M. C	—
9.	Wayne Mundy	—
10.	Old New Conway	Hornby's Eng.
11.	Marc Burrell	—
12.	Scott Dupuis	Dupuis Construction Brattleboro, VT
13.	Chad Sackles	" " "
14.	Shyl Ann	1111 1st Rd
15.		
16.		