

TOWN OF THORNTON PLANNING BOARD

Approved on: 7/18/2019
PB Initials: SB
Rec'd by Town Clerk on: 7/26/19
Town Clerk Initials: Tom

Planning Board Meeting Minutes Thursday June 20, 2019

[Note: B. Regan advised the board that some elected members, F. Freeman and B. Dutto, had given notice that they would be absent and S. Babin had phoned to say he was on his way but delayed in traffic.]

CALL TO ORDER – SALUTE TO THE FLAG:

P. Laufenberg called the meeting to order and led the Pledge of Allegiance at 6:01 p.m.

ROLL CALL:

Members present: L. Hoyt, P. Laufenberg, D. O'Donnell, R. Sabourn

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

Members/Alternates absent: S. Babin, B. Dutto, F. Freeman, J. Piehn

Acting Chairman P. Laufenberg acknowledged that a quorum was present, there being four (4) Members present. He then appointed Alternate F. Gunter to sit in place of absent Member B. Dutto and Alternate C. Schofield to sit in place of absent Member F. Freeman for the evening's meeting.

Others present: Brian Regan, Shirley Benton, Tom Duffield, Marc Burnell, Chad Stocker, Tom DeMatteo, Dick & Sandy Linck, Sandy & Tim Kingston, Mickey & Cathy Meir, Joe Capuzzo, Steve Mason, Doug Johnston, Mike Carbanneau, Adam Smith, Duane Johnston, Dean Johnston, Gerald Warren, Jay Silvia [Note: Two additional individuals signed in but the names were illegible.]

APPROVAL OF MINUTES: Upon distribution and review of the meeting minutes of May 16, 2019, the members took the following action:

MOTION: "To accept and approve the Minutes of the Thursday May 16, 2019 meeting as amended."

Motion: C. Schofield

Second: F. Gunter

Discussion: None

Motion passes: 6-YES, 0-NO

PRELIMINARY BUSINESS: Signing of site plan of Fresch Development for project at 22 Merrill Access Road.

B. Regan reported that the applicants had produced evidence of fulfillment of conditions of approval and presented the final plan for signature. The Mylar and paper copies were signed by the Chairman and Secretary.

COMMUNICATIONS: Letter to Chairman Babin from Town of Thornton
S. Babin read a letter sent to the board in his care from the Board of Selectmen. The letter raised the issue of how to address the matter of regulations of short-term rentals in town carried out through entities such as Air B&B, VRBO, HomeAway, et al. After general discussion the board, by consensus, requested B. Regan to investigate the matter and report back.

REPORTS:

1. Planner Review of H.1 below.
2. Planner Review of H.4 below.

B. Regan stated the above referenced reports would be oral and presented for consideration with the related items.

UNFINISHED BUSINESS: None

HEARINGS:

1. APPLICATION/PUBLIC HEARING EXCAVATION PERMIT-6:15 pm: Application for a Permit to Excavate submitted by Shirley Benton & Jerel Benton for property owned by them and identified as Tax Map 10 Lot 14-03 located at 4 Stone Dam Road off Merrill Access Road.

P. Laufenberg read the forgoing and re-opened the public hearing at 6:17 pm.

B. Regan advised the board that they had the original application package before them as well as documentation which gave notice of the State's concern. There is follow-up documentation that shows their work to satisfy their concern about encroachment. A revised plan is also attached.

T. Duffield: Town got response from DOT about the boundary. This property is a residual piece of land when I93 was taken; the State thought we had encroached on their property. The property was surveyed by the State and they determined the applicant had not encroached. They admitted their right of way taking plan was wrong and the Benton property actually has another 76 feet of frontage on Stone Dam Road. In addition, we asked them if they are an accepting abutter or disapproving abutter, because under the regs an accepting abutter has a ten-foot setback for doing any grading or disturbance; if not then it is 50 feet. We have correspondence that they are accepting of this and a ten-foot setback is fine from the property lines. The other issue that came up is Merrill Access Road has a 200-foot right of way and it's a limited access road because it could be an interstate access road at some point or an exit. We've redone the grading plan because this Merrill Access Road is not on the northern portion of the 200-foot right of way; it's fairly close to centered in that 200-feet. We have concrete bounds shown and the rest of the property is dictated by a barbed-wire fence and a DOT fence. Here is the existing extent of the excavation, our grading plan proposal, and our reclamation plan. There's been no further excavation on the site since March or so – it's been quite a while. He'd like to renew his permit; technically we had done it before as it was a maintenance building and accessory to the facts, but now it's coming in as a regular gravel pit under RSA 155.

R. Sabourn: Concerned that we are accepting plans showing boundaries without a survey stamp on it. This is a great example of what can go wrong if there is no survey to go with it. Concerned that the new plan doesn't even resemble the old plan. Stated that if a survey had been done to begin with, parameters would have been known.

T. Duffield: Stated it's a case more on the Town if a site needs a surveyor or a stamp on it. For a site plan, a lot of times it doesn't and usually eyes and engineer help to qualify it. Stated he thinks they have a good handle on the boundary now and we have not encroached. We have also talked to the State about this future access point being emergency gates and bars. There is a process – it's not very quick or easy, but that's down the road. We want to leave it for now that there could be a future one, but that's pending NHDOT, but it's a good plan to have a secondary access into a site.

B. Regan: Stated he's not sure if it's appropriate for an excavation plan to have a proposed future entrance on it.

T. Duffield: Stated they could take that off then. They were just trying to show what the long term was and would not do it before coming back to the board for further approval. If the grading plan changes, they would need to come before the board anyway.

B. Regan: Stated the board cannot and does not approve any kind of access on that particular road because it's limited access through DOT. They did give the town limited authority to give what is there now which are right up front. Stated they would have to deal with the DOT on that.

R. Sabourn: Agreed, although it is a long way off, it shouldn't be on an approved plan at this point. He further asked if there was still discussion on the intent to offer a reclamation bond.

S. Benton: Stated he believed it was still active.

B. Regan: Stated the original site plan approval under a permitted construction project was for the original limited excavation based on the construction going on expired and is not before you. There was a bond given in the amount of \$5,000 at that time. The regulations at this stage of the process require the applicant to show ability to be bonded or to post surety. It's up to the board to determine if there's a different value that's necessary, but they have shown in the past the ability to be bonded for this site.

R. Sabourn: Wanted clarification that there is still a bond out there.

S. Benton: Stated that he had a three-year bond originally but would re-up it.

R. Sabourn: Asked whether we knew if it was still current or expired.

S. Benton: Thought he had one more year on it, but if not, he could take care of it tomorrow.

P. Laufenberg: Asked the board what they would like to do.

C. Schofield: Suggested the board and the applicant look into the bond and secure that.

S. Benton: Wondered if they could make it contingent on a couple of things so that they could be brought to the board in the next couple of days.

B. Regan: Procedurally this is like any other application. The regulations call for the board to determine whether or not the application is complete sufficiently for you to make an informed decision. If so, you can vote to accept or not accept it as complete.

L. Hoyt: Stated it seemed that the application itself is complete.

P. Laufenberg: Also confirmed that the application appeared complete.

MOTION: "To accept application as complete."

Motion: D. O'Donnell

Second: L. Hoyt

Discussion:

B. Regan: Accepting it as complete means you feel there is enough in front of you to make an informed decision to approve or disapprove. If you then want to approve, disapprove or deny then you can do so; that's the second vote. It doesn't have to be this evening; you can continue the public hearing if you feel you need more information.

P. Laufenberg: Stated the first vote is to accept it as complete; we have that motion. The next phase would be to add conditions to the whole, overall plan if we want to.

B. Regan: Stated the only way to add conditions to it is to approve it or conditionally approve it, which would be a second vote.

Motion passes: 6-Yes 0-No

P. Laufenberg: Motion made to accept the application. Application accepted. Now we need to decide if we are going to approve it straight up or with conditions.

D. O'Donnell: Posed question to everyone – do we feel like the bond for what he was doing originally is enough for what he is doing now or does it need to be increased?

T. Duffield: Stated he recalculated the areas based on the new plan; it is a similar area to what was there before - plus or minus.

B. Regan: Stated one consideration in that regard, which was discussed even with the original application, was concern about reclamation was significant on the north face, which is the boundary that's been in question, is very steep; ultimately steeper and something to consider.

P. Laufenberg: Stated applicants have satisfied our requirements. Whether they are dated or not is a conversation for another time. In this case, \$5000 is what's required; if we think there is need for more now is the time to request it.

F. Gunter: Stated he thinks the indication of \$5000 is too low.

C. Schofield: Asked if we should raise it to \$10,000.

P. Laufenberg: Stated we could attach that onto the conditional approval.

R. Sabourn: Asked if the applicants were going to have any top soil here to work with for the reclamation.

S. Benton: Stated they did and would also bring in any if they had to.

T. Duffield: Concurred that there was loam needed.

MOTION: "That permit be approved for the excavation on two contingencies; one that the future access location is removed from the plan and that the amount of reclamation bond is \$10,000 and upon standard operating procedures of record."

Motion: F. Gunter

Second: D. O'Donnell

B: Regan: Stated the notice of decision becomes the permit so the board needs to address the hours of operation, removal of soils, and things of that nature. He can incorporate these into the notice of decision.

F. Gunter: Stated he could modify to incorporate their standard operating procedures.

P. Laufenberg: Stated the need to vote on the approval of the permit with the conditions discussed.

Motion passes: 5-YES, 0-NO, 1- ABSTENTION (R. Sabourn)

2. APPLICATION-AMENDED SITE PLAN-6:30 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.

P. Laufenberg read the forgoing and opened the matter for consideration. He then asked for clarification as to what is being presented to the board.

B. Regan advised the board that this matter is a request for amendment of a previously approved plan. Marc Burnell of Horizons Engineering, Inc. introduced himself as an agent for the applicant LCJ Holdings, LLC. He then presented copies of the revisions to the plan and gave a brief overview of the proposed project change while referencing the plans he had presented.

P. Laufenberg asked just what is being amended from the initial plan.

M. Burnell stated, in essence, that they want to change from two buildings into one building with a reduced overall footprint.

P. Laufenberg then asked what was the reason for the change requested.

M. Burnell said money.

P. Laufenberg then asked if the proposed amendment affected the proposed use.

M. Burnell replied it would not.

R. Sabourn asked if the locations of the proposed structures would be on the same locations as initially presented.

M. Burnell said they would be.

C. Stocker added that it would be an addition of square footage to one building and elimination of the other as well as a reduction in size of the parking area.

B. Regan added that if approved, save for the particulars requested tonight, the amended previously approved plan would continue to include all other terms, conditions and specifications of the plan as originally presented and approved.

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."

Motion: C. Schofield

Second: F. Gunter

Discussion: No further discussion

Motion passes: 6-YES, 0-NO

3. APPLICATION/PUBLIC HEARING - 6:45 pm: 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.

P. Laufenberg read the forgoing and opened the public hearing at 6:46 pm.

B. Regan advised the board that the application had been accepted as complete and is now before them for further review and public hearing.

Marc Burnell of Horizons Engineering, Inc. again introduced himself as an agent for the applicant.

He then presented copies of plans and gave an overview of the proposed project while referencing the plans presented. He reiterated at this point in time, the applicants are only looking for approval to construct the "infrastructure" for the proposed roadways and lake.

Chad Stocker of Dupuis Construction introduced himself as the contractor on site.

R. Sabourn asked about the easements for utility lines identified on the plan and whether the easements were in place or in the works. M. Burnell stated his understanding is that both remain in place because the poles remain in place.

R. Sabourn asked if the new utilities were in place.

M. Burnell said the lines had not been transferred yet so the easement was kept on the plans.

C. Stocker stated the poles were in place on the new easement, but not hooked up yet.

B. Regan made a point of clarification in that the application before the board is not just for a lake but also development and reconfiguration of roadways within the resort property which may impact different parcels within the resort property.

P. Laufenberg asked if there were any questions from the public.

T. Kingston, an abutter, asked:

1. What is the size and acres of this lake?
2. What is the volume of water this lake will require? Where will you get the water?
3. Do you have NH DES groundwater withdrawal permitting? Are they involved?
4. Depth?

M. Burnell stated the size is 9 and ½ acres; approximately 30 million gallons; DES is involved since it will be a recreational pond. Preliminary discussions are ongoing. Depth would be 15 ft.

S. Mason, an abutter, asked:

1. If a withdrawal from the river certificate was in place?
2. Are you going to open the water table?
3. Onsite contamination control for construction of the lake?
4. Plan for bleed off of overflow?
5. What are the Kilovolts of the power lines?
6. Will the lake be lined?

M. Burnell replied no to the certificate for withdrawal and no to opening the water table

He further stated that a SWPPP was filed today to address contamination control concerns, etc.

M. Burnell and C. Stacker stated the lake will be lined but the final determination of its thickness was yet to be determined.

M. Burnell and C. Stacker stated they were not in a position to answer questions about the power lines.

B. Regan made note of the history of the power line relocation issue. He stated he had conversations and correspondence with the project manager dating back at least two years. He further stated that despite promises to address the matter through a site plan review process, that had not been done yet the project was well under way. Finally, he stated that he had suggested to the applicant's representatives and agents that the matter might be addressed by including it as part of the proposed amendment to a previously approved plan that does not seem to have been done.

J. Capuzzo, an abutter, asked if this matter would be decided this evening and expressed concerns that a lot of questions are not getting answered and perhaps people who can answer them should be here.

P. Laufenberg asked if the use of the pond would be limited to recreational and fire protection only?

M. Burnell replied that was the plan.

P. Laufenberg asked the board members if there were any further questions or comments.

R. Sabourn suggested it would be in the board's interest to have copies of the necessary state approval in hand before any planning board approval is considered. He further suggested it would be premature to approve anything until all "ducks are in a row".

P. Laufenberg asked the wishes of the board.

MOTION: "To continue discussion and the public hearing of this matter on July 18, 2019 at 6:15 pm".

Motion: R. Sabourn

Second: F. Gunter

Discussion: No further discussion

Motion passes: 6-YES, 0-NO

4. APPLICATION/PUBLIC HEARING-7:00 pm: Application for Minor Site Plan Review submitted by Adam Smith on behalf of Smitty's Heavy Duty Diesel Repair, LLC for the development of a "Diesel Repair Shop" on its 6.75-acre property located on Laundromat Road and further identifies as Map 15 Lot 04-710

P. Laufenberg read the forgoing and opened the public hearing at 7:04 pm.

B. Regan stated the board had Mr. Smith's application for an industrial parcel his company has purchased for his company and plans to develop it for commercial use with the specifics spelled out in his application. Brian stated, from what he could tell, everything submitted was sufficient.

P. Laufenberg asked Mr. Smith if he had any comments, to which he stated he did not unless the board had questions for him.

R. Sabourn asked if Mr. Smith was moving his operation from North Woodstock to Thornton in order to increase his operation which was answered affirmatively. This parcel wraps around the properties of two abutters.

B. Regan stated this company owns the property that was a subdivision approved by this board. Mr. Hall cut out a part that he retained and sold off the rest. All abutters have been notified. The only one we heard from was the State of New Hampshire DOT and their only concern was that we assure them that there would be no stormwater run-off that was going to affect their property. We've heard from no other abutters.

C. Schofield: Raised the question on the submission requirements that number eight in the packet was not checked off and if this was something, we were looking at this evening. B. Regan stated the applicant completes the checklist. Mr. Smith stated there is an existing driveway but he doesn't have a driveway permit. The Town is supposed to have one, he was told by the previous owners. B. Regan stated a driveway permit can be obtained if there isn't one.

D. O'Donnell: Asked if the septic system was existing or proposed. Mr. Smith stated it is proposed. B. Regan stated any application for construction would require a zoning compliance application.

R. Sabourn stated Mr. Smith had permission to build a septic but it hasn't been installed yet.

MOTION: "To accept the application as complete."

Motion: D. O'Donnell

Second: F. Gunter

Discussion: R. Sabourn asked what Mr. Smith was proposing for lighting. Mr. Smith stated the way the building and office face, there would be no exterior lighting facing neighbors. No lighting would be on 24 hours. He has a security system that has night vision so no lighting at night will be necessary.

Motion passes: 6-YES, 0-NO

MOTION: "To approve the application as presented."

Motion: R. Sabourn

Second: D. O'Donnell

Discussion: None

Motion passes: 6-YES, 0-NO

5. APPLICATION/PUBLIC HEARING-7:15 pm: Application for a Permit to Excavate submitted by Leigh Johnston for the 8.74-acre property owned by him and identified as Tax Map 15 Lot 04-69 located at U.S. Rte. 3 near Beacon Hill Road.

[Note: S. Babin arrived at 7:19 p.m. and took his seat while ceding the Chair to P. Laufenberg for the remainder of the meeting.]

P. Laufenberg read the forgoing and opened the public hearing at 7:20 pm.

B. Regan stated the board had a fairly clear application before them. The checklist was not complete but it has been an existing excavation site for some years and has been renewed at least once that he was aware of.

D. Johnston stated the application was the same as the one done five years ago. He pointed out the difference between the current application as compared to the prior one. There is no run-off, no water on the property. Everything else and the bond is in place, renewed every three years.

R. Sabourn stated that the gentleman that stamped the plan with his septic designer's license was completely out of bounds. This is a survey and he's breaking the law putting his seal on it. The seal is the part that is the problem. This is way beyond the scope of a septic designer's license. He shouldn't be doing it and it shouldn't be on there, which is a discussion we had earlier. They are breaking the law and he hopes in the future the board would not accept these plans.

P. Laufenberg questioned why the checklist wasn't done.

B. Regan stated that the board could run down the list if they wanted.

D. Johnston stated that everything on the checklist was noted in the application. He did not note each item with a check as he didn't think it was necessary. He stated he should have asked. Everything from five years ago is the same – nothing has changed.

MOTION: "To accept the application for a Permit to Excavate as complete."

Motion: F. Gunter

Second: D. O'Donnell

Discussion: C. Schofield asked if the bond automatically renewed every 36 months. Mr. Johnston stated it does renew annually and the town gets a copy automatically, which he verifies.

R. Sabourn asked if a reclamation plan was submitted when the pit was opened and if it was still in play.

Mr. Johnston stated, as he understands it, the town requires he show reclaimed areas. It has never been presented to them, as a pit operator, what the process by which reclamation was to happen. He has always provided a plan with the reclamation areas he has done using best management practices.

Motion passes: 6-YES, 0-NO, 1-ABSTENTION (R. Sabourn)

P. Laufenberg asked the board if they wanted to move to approve the Permit to Excavate.

B. Regan stated should the board choose to approve the permit; it would be subject to the conditions that were part of the notice of decision made five years ago. He also recommended to make the expiration date December 31st, closest to the five-year time period to keep consistency with the excavation renewals.

MOTION: "To approve the application for a Permit to Excavate through December 31st 2023 subject to the conditions that were part of the notice of decision made five years ago."

Motion: S. Babin

Second: F. Gunter

Discussion: None

Motion passes: 6-YES, 0-NO, 1-ABSTENTION (R. Sabourn)

6. PRELIMINARY CONSULTATION & REVIEW: Thomas Duffield/Gerald Warren on behalf of Pemi-River Campground proposed expansion off U.S. Rte. 3

P. Laufenberg read the foregoing and opened the matter for discussion.

T. Duffield on behalf of G. Warren presented the concept of expansion of the Pemi River Campground to an adjacent landlocked approximately 16-acre parcel with island (Trott property). He stated there was a deeded access to the parcel. Looking for an additional 64 campsites.

After general discussion the board noted some areas of concern. They were:

- Access.
- Railroad crossing.
- Flood plain development.

- Survey.
- Septic/Water/Electric.
- Public Safety.
- Evacuation.
- FEMA issues.

OTHER BUSINESS: None

ADJOURNMENT:

The following motion was made at 8:23 p.m.

MOTION: "To adjourn."

Motion: D. O'Donnell

Second: F. Günter

Discussion: None

Motion passes: 6-YES, 0-NO

Respectfully Submitted,

Brian Regan, Planning Director

Thornton Planning Board Meeting

June 20, 2019

6:00 p.m.

Sign-in Sheet

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

Thank you!

	Name	Address
1.	John McKimmon	16 Saw Spur Rd., Thornton
2.	Sara Holland	8 DeWay Circle, Campden 1007-105
3.	Tom Duffield	Thornton
4.	Shirley Benton	Thornton
5.	Bill De Vos	Thornton
6.	Marc Bernal	34 School St Littleton
7.	John Whitney	1276 Rt 175 Campden
8.	Charles Stacker	Cluster VT
9.	Tom DeMotte	Slingshot Dr
10.	Sandy Kingston	307 Owl St, Campden
11.	Tim Kingston	" " "
12.	Tracy Miller	175 Thornton
13.	Cathy Meier	1434 Rt. 175, Thornton
14.	Joe Caputo 320	1472 RT 175 THORNTON
15.	Allyson	8 Hill Top Rd Thornton
16.	[Signature]	100 TIDNPIKE DRAS CAMPDEN

17. Doug Johnson 95 Willow Brook Rd Throck
18. Mike Carbonneau 528 Hilltop Rd, Littleton, NH 03561
19. J M W 95
20. Duane R Johnson 73 Laundromat Rd
21. AEW TENUSTON 158 JEWELL ST MILL RD
22. Ma Sue 72B Laundromat Rd
23. GERALD WARREN 2458 RT3
24. JAY SILVIA 11 RT3
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