

TOWN OF THORNTON PLANNING BOARD

Approved on: 11/20/2019
PB Initials: SB
Rec'd by Town Clerk on: 11/26/19
Town Clerk Initials: ajm

Planning Board Meeting Minutes Thursday October 17, 2019

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

Chairman S. Babin acknowledged that a quorum was present, there being six (6) members present. He then appointed Alternate C. Schofield to sit in place of absent member L. Hoyt.

Others present: Brian Regan, Jon Warzocha, Dick Linck, Sandy Linck, Tom DeMatteo, Art Marks, Anthony Patti, Maureen Patti

APPROVAL OF MINUTES: Upon distribution and review of the meeting minutes of September 19, 2019, the members took the following action:

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

Motion: F. Freeman

Second: P. Laufenberg

Discussion: B. Regan stated he did receive input from some board members as to suggested corrections or changes and the final version is presented as amended.

Motion passes: 6-YES, 0-NO, 1-Abstain (B. Dutto)

PRELIMINARY BUSINESS: None

COMMUNICATIONS: None

REPORTS: None

UNFINISHED BUSINESS:

1. Short-Term Rentals-Discussion

S. Babin stated he did go to the site that had been mentioned on a few occasions and can see why, in that small neighborhood, it could be quite disturbing. He noticed that the owner gets a lot of relatively decent reviews; the problem that it's causing in the community is not being reflected in the market place. S. Babin stated he did not reach out to the people running the services. He stated in the communities that are heavily populated, they are very strict on the noise and they do police it. He doesn't believe the homeowners have the strength or the power. He feels there is a way to have the companies do the service help instead of local police.

F. Freeman stated his disagreement as the company that does the service is merely marketing and advertising. The owner must establish the rules of the house and is the only one that has control of the tenants when they are there. When you book with "Airbnb", they do not care what you are

doing. He does not feel it is the Airbnb's or VRBO's, or HomeAway's business to police the rental; it's the owner's business to police the rental.

S. Babin stated the overlying businesses have more to risk than the owners. He has seen in many communities the businesses have been the arm that has controlled the problems.

B. Dutto stated he agrees with Frank. He has a house on Cape Cod that he rents through "weneedavacation.com" and they have nothing to do with it once he gets a tenant in. It is a very common thing down on the Cape for people to rent their second homes where it is also controversial. It's somebody's property – if they want to let somebody use it and are responsible for it, it is up to the homeowner to have to deal with it.

P. Laufenberg stated it is not about the house; it's about the neighborhood that they are in. That's the problem. The particular property being talked about is a house that is a two-bedroom house and there are fourteen people in it. The road is being blocked and people up the street cannot get an emergency vehicle in.

B. Dutto stated that problem exists also at the Cape with a couple of big houses. He feels it is up to the property owner to take care of that.

P. Laufenberg stated the property owner doesn't care.

F. Freeman clarified that he was talking about the nationwide "Airbnb" – the internet services. If an owner hires a local person, like a local realtor or local property manager, then the local realtor and the local property manager can do the policing a lot more efficiently and effectively because they are on site.

B. Dutto wondered what the difference is if it's a homeowner having the party with fourteen people and eight cars; it's the same situation in that it is uncomfortable for the neighbors but it doesn't make any difference if it's a homeowner or somebody paying to stay there.

F. Freeman stated that one party a season isn't going to make an issue, but when you get a house with people coming and going, like a hotel, with multiple parties a month, then it becomes an issue.

R. Sabourn stated a valid way of taking care of this would be to call a local police station and inform them of the disruptions and let them deal with it initially. A proposed ordinance from Laconia talked about an annual renewal of the permit; if there are "black marks" from police reports or from people calling in, there is an automatic disqualification for another permit.

Remove their permit for two years at which time they can try it again.

S. Babin agreed and stated it is a two-pronged approach. Homeowners using internet-based booking sites are incredibly controversial in urban areas. Several communities are trying to limit the ability of people buying homes in which they don't live. If you have an owner that wants to ignore the marketplace and do it individually, the Town also has a means to control it. We have ordinances where the police can go in such as noise and light. It was then mentioned the Town does not have a noise ordinance, but does have a peace ordinance but this is arbitrary.

R. Sabourn stated this was used when there were problems with some of the outdoor events and the noise levels. A decibel meter was brought in and the noise was toned down.

S. Babin stated perhaps we could start to develop a regulation or an ordinance.

R. Sabourn stated an ordinance would require a vote at Town Meeting. A policy can be done in-house.

P. Laufenberg stated the real target for that is in residential zones, but that would be spot-zoning to a certain degree. It has to be town-wide but the purpose behind it is protecting the residential zones.

B. Regan stated that would not be spot-zoning; it would be changing a use within a district. Changing, adding, or restricting a use would require amending a zoning ordinance.

F. Freeman suggested everyone on the Board weigh in whether this is something the Board, the Town should be concerned with or not at this point in time.

D. O'Donnell thinks it would be helpful in all respects to have, whether it's an application process or permitting process, a registry of some sort so the town officials, police department, and everybody know the list of people in town who are using their homes as short-term rentals. J. Piehn would also like to see if there is anything pertaining to number of people that can be in a single residential building at one time.

S. Babin is concerned that if someone were to purchase a piece of property and had the ability to make money from the purchase, town regulations might give the owner recourse with the Town or State. However, if we fix this problem and license it moving forward would eliminate the problem. If we curtail their ability to conduct business, we are infringing on what they considered a right that they had prior to buying the property.

B. Regan stated calls from people looking for the rules and regulations come into the Town office and are referred to him making this an issue that needs to be addressed. Can the current zoning ordinance address it or does it need to be amended and, if so, how do we do it? We cannot solve individual problems at this Board.

F. Freeman stated if he buys an acre of land in a residential zone and builds a house with the express purpose of running it short-term through one of the internet services, has he just built a one-unit hotel? Is that a residence or a business? If it's a business in a residential zone, there seems to be a conflict. If it's a residence doing residential business, then that's a different story. Some definitions are needed.

R. Sabourn stated the State of New Hampshire would determine that to be commercial use.

P. Laufenberg stated he feels the Board wants the discussion to move forward; something should be done at the Town level. He asked what the timeline would be to get something to the Town that needed to be voted on.

B. Regan stated the final version would have to be in the first week of February, but it would require two public hearings prior to that; therefore within the next month to six weeks at the latest.

Further discussion ensued and S. Babin stated that licensing expressed by R. Sabourn would allow the Town to see who has short-term rentals; saying there must be a precedent out there.

B. Regan stated that Laconia has done that to a degree – going with a major overhaul and went with a limited, but controlling regulation-which might be a good starting point.

P. Laufenberg suggested making a sub-committee to review this and come back to this board by a certain date with a recommendation for moving forward.

D. O'Donnell suggested that perhaps the Board have a work session to deal with this one issue.

B. Regan stated this could be done as long as the meeting was posted.

HEARINGS:

1. APPLICATION 6:15 p.m.- Boundary Line Adjustment: Gray Birches Condominium Association, Waterville Estates Village District and n/f Waterville Birches, LLC, Tax Map 17 Lot 14-15 and Tax Map 17 Lot 14-15-03, regarding lands off Weeping Birches Lane.

S. Babin read the foregoing and opened the matter for consideration.

B. Regan stated the Board has before them a housekeeping matter. The Board approved the final approval for Waterville Birches, LLC, represented by Mr. Tom Avallone, a few years back. In that he truncated his prior proposal to a shortened roadway with four condominium units on it. That was all approved, built, and sold. Subsequently he went to the Town Meeting with the request for the Town's acceptance of Weeping Birches Lane up to and including that cul-de-sac that was within the project. Town Meeting approved this subject to the Selectboard being satisfied on many different accounts. It has finally reached a conclusion. Before you tonight is a revised plan designed to clean up a flaw in the original plan for the roadway that would allow appropriate parties to convey lands so that the roadway could be accepted and

all parties can be happy. The Town of Thornton is involved directly only because of the road.

R. Sabourn stated before the Board is essentially an as-built plan which the Selectboard required to have done based upon some discrepancies that were seen in the various plans. The roadway and what we call "wing" extensions A and B do not take in the entire paved area of the cul-de-sac. Also, up by the detention pond the road has crowded the actual physical surface. If we had accepted the road as it was, we would have had an asphalt turn-a-round on private property that the Town wouldn't ever own. The Board worked with the Village District and with the homeowners there, particularly the Gray Birch folks. The Board has asked the homeowners to grant a deed to the Town for area C, which contains the detention pond (about a third of an acre). The reason we are asking for that is because there is no way to widen the cul-de-sac that exists there now and there needs to be an extension beyond the asphalt. The idea is for the Town to take ditching materials that the Highway Department is taking out; trying to re-slope that area. The Town is asking for a deed from the Village District for the 50-foot strip down to the end of the roadway. The Board believes the former developer still has the underlying title to the "wing" areas A and B, so we will ask that entity to give us a quick claim deed for any interest they may have because those areas were not included in the condominium creation documents. The Gray Birches folks would be granting us C, the former developer will be granting us the A and B extensions; the road would be the Village District, and, because of the proximity of the road and drainage over the edge, we want an easement deed from White Birches Condominiums so we could exit the water. The Village District has generously offered to pay for the deed drafts to have all of these things done. It is in everyone's best interest to fix this. The Town is satisfied; we have done our due diligence and we believe this will take care of the issue. From the Board of Selectmen's viewpoint, this is the right answer.

M. Patti stated that Mr. Haskins, who is the president of White Birches Condo Association, is not present today, but they are in contact; he is very pleased and has no issue at all with the easement at the point identified as north of the pond.

R. Sabourn questioned if she had talked to Mr. Avalon. M. Patti stated she had not spoken to him directly, but through intermediaries. She stated Mr. Avalon believes the deed he signed last absolved him of any ownership; he will sign any quick claim presented to him.

S. Babin wondered if, for the 2019-2020 Winter, the Town would be plowing through to Snowood Drive.

R. Sabourn stated that road (i.e. other end of Weeping Birches Lane) doesn't exist.

B. Regan clarified Mr. Avallone's group sold off the parcels; they came in for a ten-unit project which is similar; it's a truncated end of Weeping Birches Lane with a cul-de-sac. It's currently being build out to ten single-family dwellings.

J. Piehn wondered if we could approve this without taking it to Town Meeting.

R. Sabourn stated the Town told the Board it was okay to take the road provided we were satisfied with all the conditions and provided it didn't cost the taxpayers any money.

B. Regan stated for the Board's information, all parties that were sent the letter have signed and returned the letter. Therefore, for the parties involved and all abutters, we have a signed statement of notice.

S. Babin asked what are the wishes of the board with respect to the proposed Boundary Line Adjustment. The board then took the following actions.

MOTION: "To accept the application as complete."

Motion: P. Laufenberg

Second: D. O'Donnell

Discussion: None

Motion passes: 7-YES, 0-NO

MOTION: "To approve the plan prepared by John March d/b/a Mountain Mapping for a Boundary Line Adjustment of properties now or formerly owned by Waterville Birches, LLC; Gray Birches Condominium Association; and Waterville Estates Village District, as identified and depicted on the revised plan submitted."

Motion: F. Freeman

Seconded: P. Laufenberg

Discussion: None

Motion passes: 7-YES, 0-NO

2. APPLICATION 6:30 p.m. - Amendment to a Previously Approved Plan: Horizons Engineering as agent for LCJ Holdings, LLC, Tax Map 16 Lot 01-07-03 [Cart Barn and Pro Shop].

S. Babin read the forgoing and opened the matter for consideration at 6:35 pm.

J. Warzocha from Horizons Engineering introduced himself. He stated that he had two applications before the Board that were done at the same time and are kind of the same project. We have two site plan approvals in the area. The work being proposed right now that's included in this application is to modify the existing parking lot between what used to be the Owl's Nest Club House – now Panorama Restaurant - and the Cart Barn Pro Shop, a separate site plan. There were two site plan approvals; one for that Panorama building which included a tent for doing functions and some modifications to the driveway and then there was an approval for the Cart Barn Pro Shop. The parking lot is in between the two and overlaps both approvals; therefore, we're asking to amend both.

J. Warzocha proceeded to hand out and discuss plans regarding the Cart Barn Pro Shop, pointing to the area of the site plan approval that they would like to modify. Existing now is parking outside to the north of the Cart Barn Pro Shop. Currently there is the "Sprung" Building that is off to the east that houses the golf maintenance facility. The current golf maintenance facility is going to be relocated. The Board approved the revised facility off of 175 which is under construction right now; projected to be done this winter. They are going to vacate that facility and that "Sprung" will come down. The owners at Owl's Nest would like to add four paddleball courts adjacent to the existing Sport's Nest building. Details of what the courts look like are in the package. Basically they are wooden structures that are raised a little bit off the ground. They are about two-thirds the size of a tennis court and they are used during the winter to play paddleball; they are heated from underneath. In the summertime they will be used for pickleball. This fall the owners would like to install two of the courts that don't conflict with that "Sprung". There is not real grading required with the site; the site is already flat and ready to go. The courts have been designed to span the existing leach field, so there is no conflict with that. The first two will be built in November, and the other two would be built once the "Sprung" comes down. They want to amend the plan to include these four courts and the parking lot modifications out in front that includes some regrading, a little bit of drainage work, and ultimately paving.

S. Babin stated it must be determined whether or not a building permit is needed. He also wondered about the forced hot air heating system for a permanently placed structure.

J. Warzocha stated the courts are supplied turn-key by the court manufacturer. Owl's Nest did not do any design. He said he can ask about the heating system.

R. Sabourn questioned why they are going over the leach field as opposed to setting it over eight feet to clear it. J. Warzocha stated they wanted the leach field tight to the building to allow walking from the building right out onto the courts. They did raise the concern if there was a problem being over the leach field. The court designer was made aware of that and increased the span.

R. Sabourn stated he was not thinking of load-bearing, but in 15 or 20 years when it has to be replaced.

J. Warzocha stated that could be a challenge but there is plenty of room to put another field.

B. Regan stated in a preliminary review of this particular application, the plan showed a free-standing propane supply tank, above ground or below ground. The fire chief was going to be approached to discuss and comment.

B. Regan stated he received an email saying he was going to meet with the contractors and hopefully will get us something before the meeting if he was concerned.

The board then took the following action.

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: P. Laufenberg

Second: D. O'Donnell

Discussion: No further discussion

Motion passes: 7-YES, 0-NO

3. APPLICATION 6:45 p.m.- Amendment to a Previously Approved Plan: Horizons Engineering as agent for LCJ Holdings, LLC Tax Map 16 Lot 01-08 [Clubhouse and Event Tent].

J. Warzocha stated this amendment solely involves parking modifications; basically a continuation of the last plan. It is the same general footprint of the parking lot; it is just being reconfigured. The one notable change is that currently there is a cart storage building in the middle of the parking lot; this will go away in order to do the parking modifications. The plan for that building is still in flux; the proposed plan for that building is to move it temporarily and leave it stored on site in the previously approved area and then come back for another approval from the Board to permanently relocate it. The other thought is to demolish it.

D. O'Donnell asked if there would be just the one entrance?

J. Warzocha pointed out that before the Board is basically the same footprint of the parking lot without the building. There will be some lighting; there'll be some landscaping; some tree islands. The general footprint of the parking lot doesn't change.

B. Regan stated as a point of clarification that the projects, both the prior plan and this one, are limited in their area of coverage but together encompass what the owners want to do. They are on separate parcels which is why the Board is seeing two separate proposals. If there were to be a future entrance from a different angle, that would be another application.

The board then took the following action.

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: D. O'Donnell

Second: P. Laufenberg

Discussion: No further discussion

Motion passes: 7-YES, 0-NO

4. PRELIMINARY REVIEW AND CONSULTATION: Horizons Engineering as agent for LCJ Holdings, LLC for Owl's Nest Resort Master Plan and future development.

J. Warzocha used a full color Master Plan rendering to describe the Owl's Nest Resort present and future.

J. Warzocha stated this was an informational presentation to show where things are headed next. He discussed what the Town of Thornton has already approved within the past year and a half: an access road coming in; the loop road going around; the lake excavation; the maintenance facility off of 175; Sunrise, the rental units on Lafayette. They will start working on in-filling with amenities and housing in the area that was previously approved for the lake and loop road. It is the owners' desire to create an amenity area to the west side of the lake to include a tennis court complex, a pool complex, some beaches on the lake, and a function facility. There will be a restaurant – a small, outdoor, snack bar/restaurant that will also provide food service for the function facility. There will be some relatively small amount of residential housing – programming is still being done for that. Moving around the east and north end of the lake will be various types of residential product. They are in active discussion with Campton Village Precinct to provide potable water and fire suppression water for the complex. Waste water disposal for everything will continue to be on site with cluster and individual septic systems. Most of the state permitting has been completed on this.

B. Dutto wondered whether a hotel/conference center/spa/wellness center was going to be in Thornton.

J. Warzocha felt from his understanding it is right on the line but there is no immediate plan right now.

B. Dutto asked if they, as the Planning Board, could go out on the property.

J. Warzocha stated that could certainly be arranged.

R. Sabourn stated at one point there was discussion of two hotels and wondered about that.

J. Warzocha stated there was discussion of a smaller, boutique hotel on one side of the lake. The current thinking right now is that it would be residential product as opposed to another hotel.

J. Piehn wondered if the residential might be like the existing which is more Airbnb; privately owned and not in rental.

J. Warzocha believed it would be a combination. There is a strong intent to produce some for sale residential and likely a significant component of rental units, whether they're long term rentals in the form of apartments in larger buildings, stand alone, or some more Airbnb.

J. Piehn stated those are the units that she hears from people who live on the other side of 175 of the existing noise. These would be even closer to 175 than what the existing Airbnb rentals currently are.

J. Warzocha thinks the programming is not far along enough right now for any kind of comment other than the plan being a mix of single stand-alone units, regular single family homes, and multi-unit buildings. The owner has indicated there will be some for sale properties here.

F. Freeman stated one thing to consider is it is nothing but a barren, bare, open plain as this development grows, it is going to affect noise levels.

J. Piehn wondered, as planning is being done, the noise that could come from additional residences will be taken into consideration.

J. Warzocha stated he would certainly bring that to the planning team and mention that there is some concern about that.

S. Babin wondered where in process the land dedication agreement was.

B. Regan stated it is in process. The Board had an amendment that was submitted, signed, presented here at a meeting, but did not include the new maintenance facility or a few different things. B. Regan corresponded with Attorney Hastings and talked with Wayne Murphy. The amendment was modified to include everything and re-done to have only one amendment instead of two and one plan that goes with it.

S. Babin wondered about the number of single family homes on the property; he had heard about 420 or so and that ties in to the land dedication agreements.

J. Warzocha understood there is a constraint related to that agreement that the owner needs to stick to. He cannot represent number of units on the plan – they are really just placeholders; it's conceptual.

S. Babin feels the constraints of the overall project would be beneficial for this Board to be able to share with the people in the Town. He would appreciate more clarification on that to get the dialogue going with the townspeople and these commercial endeavors do not run into a problem. The land dedication process provides that for us but time has passed, a lot of things that have occurred haven't been updated which is a concern.

J. Warzocha stated the next time they come in for advancing this to a site plan application; they can come in a little more on the land dedication agreement and the unit counts to make sure they are addressing that more clearly with future applications to show how it directly impacts what they are proposing.

J. Piehn wondered about the impact on services. She is aware it is private property, but if anything goes wrong, there is still a need for a fire truck.

J. Warzocha stated the fire chief has seen the master plan. When they get into site plan design for these amenities, obviously emergency access for ambulance and fire is going to be critical. We will be consulting directly with the fire chief when they actually get real plans together.

B. Regan stated when any project comes forward that has any involvement like that, he shares these in advance with the fire chief, police chief, and some with the road agent, so they are aware of what is going on. Each project that comes forward would be reviewed individually. As far as the land dedication agreement, you have "x" number of acres, you have "x" number of dwelling units for that acreage. Every commercial entity, or aspect, would diminish that in some capacity or another. Presently they are nowhere near the unit use.

OTHER BUSINESS: None

ADJOURNMENT:

The following motion was made at 7:37 p.m.

MOTION: "To adjourn."

Motion: B. Dutto

Second: F. Freeman

Discussion: None

Motion passes: 7-YES, 0-NO

Respectfully Submitted,

Brian Regan, Planning Director

Thornton Planning Board Meeting

October 17, 2019

6:00 p.m.

Sign-in Sheet

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

Thank you!

	Name	Address
1.	Tom DeMotteo	3 Linkside Drive Canaan
2.	ART MARLE'S	22 PORCUPINE DR CHAMPTON
3.	Jon Wazoda	Horizon Eng Litchfield
4.	Maureen Patti	45 Weeping Birches Thornton 03285
5.	ANTHONY J. PATTI	45 WEEPING BIRCHES LN
6.	Pick & Sandy Hink	53 Edge Waterhouse, Thornton
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