

TOWN OF THORNTON
PLANNING BOARD

Approved on: 11/17/22
PB Initials: MD
Rec'd by Town Clerk on: 11/22/22
Town Clerk Initials: ACR

Planning Board Meeting Minutes
Thursday, October 20, 2022

CALL TO ORDER – PLEDGE OF ALLEGIANCE:

Chairman Nancy Decoteau called the meeting to order at 6:00 p.m.

ROLL CALL:

Members present at Town Hall: Nancy Decoteau, Chairman; Steven Babin, Vice-Chairman; Frank Freeman; Peter Laufenberg; Donna O'Donnell; Karen Waters; David Rivers; Kathy Menici, Planning Director; Kerrin Randall, Board Assistant

Members not present: Jack Gaites

Alternates present at Town Hall: Cynthia Schofield

Others present via call-in (partial names are as they appeared via Zoom): 16032546722, 16178233142, 32210779864, 9xcvTP, Anne, Beth, Bob Gallagher, Bob Murray, Call-In User_1, Clementina Floral Co., Dave O'Neill, Elissa Nystedt, iPhone, Isabel, Jade H, Jean Scalese, Jennifer Fuvich, Joann Vollmer, Joe Pechie, Juan Gomez, Julia Magee, Laurie's iPhone, Margaretliszka, Marianne, Max Lash, Moms (2), Paul Brousseau, Peg's iPad, Raymond J. Angell III, Roger Robidoux, Roy Arria, Scott, Scott Sherriff, Shay, Stephen Wands (wandss), Tom Manter, Vickie, Wands, Xzito Notetaker, zwolff

Others present at Town Hall: Kevin McKenna, Peg Kerr, Don Kerr, Maureen Broseau, Bruce Kobe, Kristine Surdawn, Joel Tiberii, Christins Guilbert, Roy Sabourn, Mike Maltby, Lynn Cordon, Ennio Cordon, William Cite, Natalie Cite, Jerry Sobolewski, Barbara Sobolewski, Joe Monti, John Blankenship, Darlene Blankenship, Philip Hastings, Melissa Lien, Dave Lien, Dan Gallagher, Kathleen Gallagher, Mark Hennessy, Mike Stone, Stanley Bujalski, Denise Bujalsk, Jacob Johnson, Julie Piehn, M.A. Madaelio, Debbie Duffy, Deb Hurley, Thomas Jardin, Joyce Jardin, Celeste Moreau, Gary Piehn, Matt McDermott, Ivehy Hidalgo, Victor Semlek, Vikki Johnson, Pete Johnson, Ben Redden, Lauren Hopkinson

APPROVAL OF MINUTES:

Upon distribution and review of the meeting minutes of September 15, 2022, the members took the following action:

MOTION: "To accept and approve the Minutes of the Thursday, September 15, 2022 meeting as amended."

Motion: S. Babin

Second: K. Waters

Discussion: None

Vote: 6 YES - 0 NO - 1 ABSTAIN

Motion passes.

MOTION: "To amend the order of the agenda."

Motion: N. Decoteau

Second: K. Waters

Discussion: None

Vote: 7 YES - 0 NO - 0 ABSTAIN

Motion passes.

55 **HEARINGS:**

- 56 1. CONTINUED APPLICATION/PUBLIC HEARING – Scenic Road Hearing; Mill Brook
57 Road [Map 213, Lot 11, Map 213, Lot 12, and Map 213, Lot 13] John Kubik as agent for
58 Town of Thornton Highway Department. *Improvements proposed on a Scenic Road to*
59 *include tree removal and ditching.*

60 Road Agent Jon Kubik stated the Board of Selectmen have held multiple public meetings and listened
61 to residents discuss concerns about traveling difficult sections of Mill Brook Road. He reviewed that a
62 site visit with the BOS was performed, and four (4) specific locations were brought to attention that
63 pose difficult travel in the winter and some of the sections require more frequent maintenance from the
64 highway department due to inadequate drainage. To make these improvements ditching and some
65 tree removal would be required.

66
67 RA Kubik reviewed that Mill Brook Road is classified as a Scenic Road and the town is required to get
68 permission from Planning Board to remove any required trees. He reviewed that he has been working
69 with the property owners impacted at this stage of the improvements and they have granted permission
70 to do the work; trees needing to be removed have been flagged.

71
72 Ms. Decoteau asked the Board for questions and Mr. Laufenberg asked what the timeline would be if
73 the Board granted the request. RA Kubik commented that they would need to get bids for the large tree
74 work before moving forward. The smaller brush will be cleaned up by the Highway Department.

75
76 Ms. Decoteau opened the Public Hearing at 6:05 p.m. and asked for comments. Joe Monti, Fadden
77 Road, commented that he is speaking as a resident and not a Selectmen on this topic. He stated his
78 property is one of the impacted areas and that 50% of the trees needed to be removed are on his
79 property. Mr. Monti thanked RA Kubik for his work on this and commented that the area in question is
80 desperately in need of drainage improvements.

81
82 Jerry Sobolewski commented that his property is also impacted during this phase of the improvements
83 and that he is in favor of the proposal.

84
85 Joel Tiberii commented that his property is also going to be impacted by the proposed improvements,
86 and he is concerned with the drainage as it appears to go directly through his property that is currently
87 vacant. He commented he plans to build a house there in the near future and wants to ensure that his
88 property is protected. RA Kubik commented that he can investigate the drainage path and keep in
89 touch with Mr. Tiberii.

90
91 Mr. Monti commented that he would like the owners of the properties where trees or earth are being
92 removed have the right of first refusal of the materials. Ms. Decoteau asked for additional comments
93 and there were none. The public hearing was closed at 6:08 p.m.

94 **MOTION: "To approve the removal of trees on a Scenic Road, Mill Brook Road, submitted by the**
95 **Highway Department for road improvements."**

96 **Motion:** F. Freeman

97 **Second:** S. Babin

98 **Discussion:** None.

99 **Vote:** 7 YES - 0 NO - 0 ABSTAIN

100 **Motion passes.**

- 101
102 2. CONTINUED APPLICATION/PUBLIC HEARING – Boundary Line Adjustment and
103 Subdivision; Kevin French as agent for Douglas and Kristen Franklin, Trustees of Robert
104 Franklin Living Trust. [Map 235, Lot 144 and Map 235, Lot 145]. *Annex land from Map*
105 *235, Lot 145 to Map 235, Lot 144, then subdivide the remainder of Map 235 Lot 145, into*
106 *2-Lots.*

107 The Board reviewed the application submitted with updated plans that Mr. French provided at this
108 meeting. After discussion, Mr. French clarified that the following is being proposed:

- To annex 1.62 acres from Lot 145 to Lot 144.
- | | Lot 144 | Lot 145 |
|-----------|-------------------|-------------------|
| Existing: | 7.27 acres | 4.7 acres |
| Proposed: | 8.89 acres | 3.08 acres |

- Following the annexation, Lot 145 is proposed to be subdivided into two (2) parcels.

	Lot 145	New Lot 145-1
Existing:	3.08 acres	n/a
Proposed:	1.16 acres	1.93 acres

Mr. French reviewed that there is an existing cabin on Lot 145, and the property owners propose a shared access driveway, and it will be noted on the plan. Mr. French commented that after speaking with Planner Menici a shared maintenance agreement for the driveway will need to be completed and noted on the plan, as well as in the recorded deeds.

MOTION: "To accept the application as substantially complete."

Motion: P. Laufenberg

Second: S. Babin

Discussion:

*A SUBDIVISION AND BOUNDARY LINE ADJUSTMENT FOR
DOUGLAS R. & KRISTIN J. FRANKLIN CO-TRUSTEES
DOUGLAS ROBERT FRANKLIN LIVING TRUST
462 & 468 UPPER MAD RIVER ROAD
THORNTON, NH
GRAFTON COUNTY
SURVEYED FEB 2022
BY FRENCH LAND SERVICES, INC.*

Vote: 7 YES - 0 NO - 0 ABSTAIN

Ms. Decoteau opened the Public Hearing at 6:20 p.m. and asked for comments. No public comments were given, and the Public Hearing was closed at 6:21 p.m.

Mr. French commented that he is unsure of how the new lot numbers are assigned, as the maps have been updated with new identification numbers. Ms. Menici asked that Mr. French get in touch with her and the Assessing Department to determine an appropriate identification at this time.

MOTION: "To approve the Boundary Line Adjustment and Subdivision for Douglas and Kristen Franklin, Trustees of Robert Franklin Living Trust. [Map 235, Lot 144 and Map 235, Lot 145] with the following conditions:

- Delete proposed lot number 235-145-1 from the plat (the lot number to be determined by the Assessors for the newly created parcel).
- Note to be added to the plan specifying that the driveway depicted on Map 235 Lot 145 is shared with the newly created 1.93-acre parcel.
 - Provisions to be added to the deeds for the maintenance of the driveway shared by Map 235 Lot 145 and the newly created parcel.
 - Deed language to be reviewed and approved by the Planning Board's legal counsel, at the applicant's expense, prior to recording.
- Monumentation to be set on the plat and in the field prior to recording. A note to be added to the plat, stamped, and signed by a NH-licensed surveyor, certifying the date on which the monumentation was set in the field.
- A note to be added to the plat which lists all conditions of approval

164 **Prior to the issuance of a ZCA:**

- 165 1. All necessary state and local permits including, but not limited to, Town of Thornton
166 Driveway permit for Map 235 Lot 145, State Subdivision Approval, State Septic Approval."

167 **Motion:** F. Freeman

168 **Second:** S. Babin

169 **Discussion:**

170 *A SUBDIVISION AND BOUNDARY LINE ADJUSTMENT FOR*
171 *DOUGLAS R. & KRISTIN J. FRANKLIN CO-TRUSTEES*
172 *DOUGLAS ROBERT FRANKLIN LIVING TRUST*
173 *462 & 468 UPPER MAD RIVER ROAD*
174 *THORNTON, NH*
175 *GRAFTON COUNTY*
176 *SURVEYED FEB 2022*
177 *BY FRENCH LAND SERVICES, INC.*

178 **Vote: 7 YES - 0 NO - 0 ABSTAIN**

- 179
180 3. APPLICATION/PUBLIC HEARING – Boundary Line Adjustment, 2700 and 2702 NH Route
181 175; Steve Tower as agent for Scott Varin [Map 207, Lot 20] and Jason and Lauren Kelley
182 [Map 207, Lot 21]. *Annex land from Map 207, Lot 20 to Map 207, Lot 21.*

183 Roy Sabourn, as representative for Sabourn and Tower, presented the BLA and the Board reviewed
184 the application.

185 **MOTION: "To accept the application as substantially complete."**

186 **Motion:** P. Laufenberg

187 **Second:** D. O'Donnell

188 **Discussion:**

189 *LOT LINE ADJUSTMENT FOR*
190 *JASON S. & LAUREN J. KELLEY*
191 *AND SCOTT VARIN*
192 *IN THE TOWN OF THORNTON, NH*
193 *SURVEYED SEPTEMBER 2022 BY SABOURN AND TOWER*

194 **Vote: 7 YES - 0 NO - 0 ABSTAIN**

195
196 Mr. Sabourn reviewed the plan in detail, gave a brief history of the parcel and its proposed line
197 adjustment to provide Lot 21 with a more open yard near their house. Ms. Decoteau opened the Public
198 Hearing at 6:35 p.m. and asked for comment. There were no comments, and the Public Hearing was
199 closed at 6:36 p.m.

200 **MOTION: "To approve the Boundary Line Adjustment for Scott Varin [Map 207, Lot 20] and**
201 **Jason and Lauren Kelley [Map 207, Lot 21] as presented."**

202 **Motion:** D. O'Donnell

203 **Second:** K. Waters

204 **Discussion:**

205 *LOT LINE ADJUSTMENT FOR*
206 *JASON S. & LAUREN J. KELLEY*
207 *AND SCOTT VARIN*
208 *IN THE TOWN OF THORNTON, NH*
209 *SURVEYED SEPTEMBER 2022 BY SABOURN AND TOWER*

210 **Vote: 7 YES - 0 NO - 0 ABSTAIN**

- 211
212 4. APPLICATION/PUBLIC HEARING –Subdivision, Jansen Farm Road; Joseph Peznola as
213 agent for Ronald and Christina Jansen c/o Monika Sibenthal [Map 239, Lot 1]. *Create 2-*
214 *Lots.*

215 Mr. Laufenberg recused himself from the hearing, as his family owns an abutting property. Mr.
216 Laufenberg removed himself from the table and Ms. Schofield was seated as a voting member in his
217 place.
218

Joe Peznola, agent for the Jansen Family, reviewed that the property owners are looking to settle their estate as they no longer live in the area. The proposed is to retain 15 acres around the house constructed in 2004, with an existing cabin on the same parcel; the parcel is already listed for sale contingent on the approval of the subdivision. He reviewed that there will be covenants developed to ensure that the 15-acre parcel is not further subdivided. Mr. Peznola reviewed that the remaining 107-acre balance will be retained by the Jansen Family.

Mr. Peznola commented that the 15-acre parcel is being listed for sale with both the house and cottage and explained that the cottage was the original home on the property and has water, septic, electric, and is habitable. Discussion on the history of Jansen Farm Road and Adams Farm Road continued.

MOTION: "To accept the application as substantially complete."

Motion: S. Babin

Second: K. Waters

Discussion:

SUBDIVISION PLAN

#52 JANSEN FARM ROAD

THORNTON, NEW HAMPSHIRE

PREPARED FOR MONIKA SIEBENTHAL

HANCOCK ASSOCIATES

DATE: 09/23/22

Vote: 7 YES - 0 NO - 0 ABSTAIN

Ms. Decoteau opened the Public Hearing at 6:50 p.m.

Ms. Decoteau shared that she is concerned with creating a new parcel with two (2) dwelling units on it, as that is prohibited in the Zoning Ordinance and Mr. Freeman reviewed that the house and cottage predate the Zoning Ordinance. Ms. Decoteau acknowledged that fact but is concerned that the subdivision is going to create a new lot with two (2) dwelling units.

Mr. Babin quoted NH-RSA 674:19:

"Applicability of Zoning Ordinance – A zoning ordinance adopted under RSA 674:16 shall not apply to existing structures or to the existing use of any building. It shall apply to any alteration of a building for use for a purpose or in a manner which is substantially different from the use to which it was put before alteration."

Mr. Rivers questioned if 'Ellsworth Road' listed on the plan is going to be a concern, as Planner Menici noted in her report that no such road exists. Mr. Peznola commented that he can remove that from the plan and note that there is a path there.

Mr. Freeman asked if approved, the subdivision would create a new lot with two (2) dwelling units and that is against the current Zoning Ordinance. Planner Menici stated yes, but after speaking with an associate attorney at legal Counsel's firm, they felt that the two (2) dwellings are a preexisting non-conforming use, and that the subdivision wasn't increasing the non-conformity.

Ms. Decoteau asked for additional comments and as there were none, the Public Hearing was closed at 6:55 p.m.

MOTION: "To approve the Subdivision, Jansen Farm Road [Map 239, Lot 1] with conditions noted by the Planning Director."

Motion: S. Babin

Second: None

Discussion: None.

MOTION: "To continue the APPLICATION/PUBLIC HEARING Subdivision, Jansen Farm Road [Map 239, Lot 1] until after the scheduled Short Term Rental Regulations Public Hearing."

Motion: D. O'Donnell

Second: F. Freeman

Discussion: Ms. Decoteau explained the Public Hearing for Short Term Rental Regulations is scheduled for 7:00 p.m., and asked Mr. Peznola if he is opposed to continuing the application until the hearing is held.

Mr. Babin asked why the Board was postponing the vote on the approval as the applicant has supplied enough information for a ruling to be made. Mr. Freeman commented that there was no second to the motion to approve, and due to timing, the application needs to be continued. Mr. Peznola commented that he has no problem with continuing the application.

Vote: 6 YES - 1 NO - 0 ABSTAIN

Mr. Laufenberg rejoined the Board as a voting member and Ms. Schofield resumed her alternate seat.

5. 7:00 p.m. PUBLIC HEARING – Short Term Rental Regulations

Ms. Decoteau reviewed that this is the first public hearing to discuss short term rental regulations and informed the public in the room and on Zoom that a decision is not going to be made at this meeting. She reviewed that there will be more public hearings to discuss this topic, and that the goal tonight is to hear questions and comments from property owners and residents.

Ms. Decoteau explained that pursuant to the town Zoning Ordinance, Site Plan Review Regulations, and NH RSA 674:43, all non-residential use of a property requires Site Plan Review including but not limited to short-term rentals. She reviewed that this was not being adhered to and the Town is trying to create a way to address it while recognizing the concerns of residents and property owners.

Mr. Laufenberg commented that the BOS has received several concerns from citizens about short term rentals and clarified that the Planning Board was asked to look into the effect of short-term rentals in Thornton, and the public granted them the authority to create regulations for short term rentals if they felt it necessary; this was done at Town Meeting.

Mr. Babin clarified for the record, that the term short term rental is identified in the Zoning Ordinance and the use of properties as short term rentals has been happening. Mr. Laufenberg commented that he was not questioning that, he was giving background information. He clarified that the Board is at the point now that they need to investigate if regulations are needed.

Ms. Decoteau asked that those present in the room wishing to speak form a line and keep their comments/questions brief in order for everyone to have a chance to speak.

Victor Semlek asked why owner-occupied rentals are not required to complete the proposed application, and Mr. Freeman commented that guests often behave differently if they know the owner of the property is on the premises while they are renting. Mr. Semlek asked how this applies to condominium associations, like ones in Owl's Nest. Planner Menici reviewed that Owl's Nest went through a full site plan review with the Board, and Mr. Semlek stated he owns a condominium within Owl's Nest and is concerned with the differing processes for individual owners and Owl's Nest condominiums.

Planner Menici stated two members of the Planning Board took up the task of developing the proposed regulations and application that is before them tonight for discussion. The proposed would be an alternative to a full site plan review to create a more streamlined process for individual owners who may use their properties occasionally to earn extra income. She reviewed that, as it currently stands, site plan review is required for short term rentals as they are being used commercially in a residential area.

Ms. Babin commented that the Town did not make the use of short-term rentals a commercial use and cited other towns who are in litigation over the use of short term rentals. He reviewed that it is his interpretation of the Zoning Ordinance that prior to 2021, every home in Thornton was permitted by zoning for the renting of rooms and furnishings of table board to resident guests in private family dwellings.

329
330 Ms. Waters clarified that this hearing was for public comment and Ms. Decoteau thanked Mr. Babin and
331 confirmed that this meeting is for public input at this time.
332

333 Dave Levin made the following comments on the application:

- 334 • Definition of a short-term rental is different in two (2) places and needs clarification.
- 335 • Consideration for residential properties that have a residential unit and separate rental unit that
336 would be a non-residential use should be investigated.
- 337 • "Fairness" needs to be defined a little more to ensure that it is understood what is being asked
338 for.
- 339 • Use of the transfer station should be granted to a property, not individuals, and renters should
340 be allowed to use it.

341 Mr. Freeman stated the Planning Board has no jurisdiction over the use of the transfer station and Mr.
342 Levin would need to speak to the BOS.
343

344 Kevin McKenna commented that the reference to egress windows on the application is too vague and
345 should be defined more.
346

347 Stan Bujalski commented that he lives in Waterville Estates, and he knows that others rent their
348 properties up there. He commented the larger issue is that companies are buying condos and renting
349 them out like hotels, and some are buying land and building houses for the sole purpose of renting
350 them out, making them clearly commercial use in a residential zone. He likened it to a hotel chain
351 buying land and building houses to use like a hotel. He continued to say that he has observed rentals
352 that are 2-3-bedroom units oftentimes have too many people staying there, putting a strain on utilities
353 and it has to stop. He stated he has nothing against people renting their properties, but there is clear
354 evidence that short term rentals in residential areas are causing problems with trash, excessive noise,
355 and overuse of the property. He also questioned if rooms and meals tax are being taken from those
356 properties that don't advertise on Air BnB or other sites that have those fees included.
357

358 Eric Olsen asked if there is a short-term rental in operation now, does site plan review need to be
359 submitted and Ms. Decoteau stated that is currently what the Zoning Ordinance requires. Ms.
360 Decoteau reviewed that there are two (2) applicants tonight for that purpose. Mr. Babin stated he
361 disagrees with the statement of site plan being required, and property owners should contact an
362 attorney on that statement. Mr. Olsen asked if abutters lists will be required and Ms. O'Donnell
363 commented that abutters should be noticed as a curtesy, hence why that statement was included in the
364 draft. Mr. Olsen asked that a maximum occupancy number be put on the application and a possible
365 minimum stay requirement. He also asked if a published list of short-term rental properties would be
366 available for the public to view. Ms. Decoteau commented the permits issued would be part of the
367 public record, much the same Zoning Compliance Applications are.
368

369 Dale Merrill commented that there needs to be some kind of noise ordinance in Thornton. He stated he
370 tries to be a good neighbor and keep his noise to a respectable level for those around him, but renters
371 don't pay the neighbors that same courtesy. He stated the Police Department needs to have
372 something they are able to enforce; the Disorderly Conduct Ordinance doesn't allow them to do
373 anything.
374

375 Ben Redden asked if those renting the house will be punished or the property owner, as the companies
376 and out of state owners aren't present when issues come up. He commented that people who have
377 short-term rentals with no concerns or issues should not be punished for those that abuse them. He
378 asked if these regulations were being proposed to get revenue for the Town and Ms. Decoteau stated
379 no. She reviewed that there are no fees associated with the applications yet and that any fees would
380 be used to cover staff time in processing them.
381

Mr. Babin commented that Mr. Merrill made a good point in that there is a Disorderly Conduct Ordinance, but many people will not call the Police Department as they don't want to be a bad neighbor. He commented if there is something going on at a property that you know is a rental and the owner is not present, calling the Police *is* being a good neighbor. He stated he has not seen the complaints the BOS has received, but if you see something inappropriate say something and call the Police.

Tim White commented that the capacity of properties needs to be addressed in the regulations, as some rentals are advertised with 6-7 bedrooms with a 3-bedroom septic system, and this can lead to overloading the septic systems as well as excessive water being used and draining from a shared aquifer. He commented there is nothing in the regulations or on the application that addresses revoking a permit if a property has multiple complaints.

Kathy Gallen commented that her understanding of the Disorderly Conduct Ordinance is that it applies to individuals that are in violation of the ordinance, not the property owner. She commented that the renters change every week, and there is no consequence for the property owners, as they are not the offenders.

Pete Johnson asked why this is not an ordinance, as the Board has jurisdiction to create one. He stated neighborhoods are being destroyed by short term rentals and rentals that can house four (4) people are having 20-30 people there at a time. He asked to what end will permitting be done, as there is nothing to be enforced.

Julie Piehn commented that she lives next to a short-term rental and feels there needs to be an enforced occupancy limit for safety, as there have been short term rentals where serious injury has occurred because of too many people. She commented that there is no place on the application that indicates where the rental is being advertised, as some websites have their own regulations that renters and owners must abide by.

Nicole Merrill asked if houses that host 20 people have sprinkler systems for fire protection and expressed her concern with cars on the roads when there is not enough parking at the property.

Gary Piehn commented that the definition of a dwelling unit as it is written needs to be looked at as people can rent yurts, busses, storage containers, campsites, and structures other than a house.

Ms. Decoteau stated the goal of creating regulations is to allow everyone to enjoy their property, whether that is renting it or living in a neighborhood where rentals are. She stated that people are abusing the renting of their properties and it effects everyone, prompting the Board to act. She stated in order to cut down on a few abusers something needs to be done. The Board is not looking to shut down short term rentals, but to help guide property owners.

Mr. Olsen asked that the Police and Fire Chiefs be invited to the next public hearing when it is scheduled. Ms. Decoteau commented she will invite them and stated the next public hearing will be at the Thornton Central School and a date and time certain will be determined and published in the newspaper, at town hall and on the town website. She also encouraged people to go to the town website and sign up for Planning Board alerts.

Lauren Hopkinson stated she has three (3) children and lives with her parents in Thornton. She stated she works for the Department of Defense and Air Force. She stated she has been to AirBnB headquarters, met with their lawyers, and safety is her upmost concern. There was an attempted child abduction in Thornton recently and the Police Department supports the size of town, but the size of town is not accurate with the number of transients passing through. She stated that human trafficking is a real problem in NH and is directly associated with people navigating through towns with no overseeing property manager. She commented that there is no way for neighbors to know if the short-

term renter next door isn't a sex offender or abuser, and something needs to be done to protect the children in town.

Ms. Decoteau thanked the public for their comments and closed the public hearing at 8:05pm

A recess was called at 8:06 p.m. and the meeting reconvened at 8:11 p.m.

4. Continued APPLICATION/PUBLIC HEARING –Subdivision, Jansen Farm Road; Joseph Peznola as agent for Ronald and Christina Jansen c/o Monika Sibenthal [Map 239, Lot 1]. *Create 2-Lots.*

Ms. Decoteau reopened the Public Hearing at 8:11 p.m. Mr. Laufenberg recused himself from the meeting and Ms. Schofield was seated as a voting member in his place.

Ms. O'Donnell asked if there was a driveway to the cabin and Mr. Peznola stated no, but there is a clear path that a vehicle can drive on.

MOTION: "To approve the Subdivision, Jansen Farm Road [Map 239, Lot 1] with the following conditions:

- Print overruns on the locus map on Sheet S-1 to be corrected;
- Delete tree line and wire fence delineations from recording plat;
- Monumentation to be set on the plat and in the field prior to recording. A note to be added to the plat, stamped and signed by a NH-licensed surveyor, certifying the date on which the monumentation was set in the field.
- Ellsworth Road to be removed from the plat and replaced with a trail designation.
- Provisions on the well protection area will be noted on the plat.
- Note to be added to the plan that lists all conditions of approval."

Motion: S. Babin

Second: D. O'Donnell

Discussion: Mr. Freeman commented that while he understands there is a preexisting non-conforming use on the 15-acre parcel, he is not comfortable approving something that is non-conforming.

SUBDIVISION PLAN

#52 JANSEN FARM ROAD

THORNTON, NEW HAMPSHIRE

PREPARED FOR MONIKA SIEBENTHAL

HANCOCK ASSOCIATES

DATE: 09/23/22

Vote: 6 YES - 0 NO - 1 ABSTAIN

1. APPLICATION/PUBLIC HEARING – Site Plan Review; 2632 NH Route 175 [Map 210, Lot 16] Michael and Michele Maltby. *Short Term Rental.*

The Board reviewed the application and commented to Mr. Maltby that he is the first person to have a site plan review for short term rental.

Ms. Decoteau verified that the property is a single-family home and Mr. Maltby stated yes. Mr. Freeman asked what group he advertised through, and Mr. Maltby stated he is using a local real estate broker; he and his family may use the house for a weekend and rent it the next weekend. Mr. Maltby stated any renters will be vetted by him and his wife and a limit of 10 people will be allowed at a time. The Board agreed that having a local contact was important.

Mr. Babin asked Mr. Maltby why here was here, and what prompted him to submit the site plan for his short-term rental. Mr. Maltby stated his rental agent suggested he check with the Town to see if there were requirements to run a short-term rental.

Ms. Decoteau commented that she is at a loss as to what conditions need to be met by applicants for a short-term rental, as there were so many concerns brought up during the public hearing that need to be addressed. Ms. Menici reviewed that Mr. Maltby has noted on the site plan some of the concerns with occupancy, parking, local contact, snow storage, trash receptacles, and approved septic for five (5) bedrooms. She commented that would cover what the Board would be concerned with.

MOTION: "To accept the application as substantially complete."

Motion: F. Freeman

Second: K. Waters

Discussion: None.

Vote: 7 YES - 0 NO - 0 ABSTAIN

Ms. Decoteau opened the public hearing at 8:24 p.m.

Ms. Gallen stated that what the Board does with this application will set a precedence for future short term rental site plans, and that a condition to the approval could be that the property manager needs to be local in the event that something happens. Mr. Maltby clarified that he has owned this house for years and they still plan to use it but would like to be able to rent it when they are not there.

Mr. Babin commented that the Board is creating an expectation that cannot be met and that, as a taxpayer, Mr. Maltby has the right to use his property as a short-term rental. The Board will be violating the NH State Constitution by creating an expectation of the applicant that he cannot meet because the Board has not determined what needs to be satisfied. He stated that if there is a problem at the rental, neighbors need to call the Police. Ms. Gallen commented that the 'social contract' of neighbors helping neighbors by calling the Police for unruly renters is not working and something needs to be done.

Ms. Decoteau recognized that moving forward with this application will set a precedence.

Mr. McKenna commented that the previous conversation on the proposed regulations has created more questions than answers and asked how this application can move forward. He commented that Mr. Maltby has done everything right, but what is the right process at this point. Ms. Decoteau agreed with Mr. McKenna and asked for any other public comment. There were no other comments, and the public hearing was closed at 8:30 p.m.

Discussion on staying an application versus continuing the application continued. Mr. Babin commented the Board has no legal reasoning behind the application before them and staying the application means that legal counsel can review the application to see if what is occurring is applicable.

Mr. Babin commented the fear from the Board is that they don't want people to be doing bad things, but he doesn't know where board gets authority to ask someone to come in for site plan review for an allowable use. He stated the applicant should have been told that short term rentals were being discussed and that he had the right to withdraw. He stated no one told the applicant that he would be coming in here to give up his property rights.

Mr. Laufenberg thanked Mr. Maltby for submitting the site plan review, as per the Town and State, a short term rental is viewed as a commercial use, but at this time he feels the application needs to be stayed in order to gather more information before a decision can be made.

Ms. Menici clarified that the BOS posted on the town website that short term rentals require site plan review, per the State of NH. She stated that she and staff informed Ms. Maltby that proposed regulations were being discussed, and that Ms. Maltby's application could wait until the outcome of that discussion was determined, and Ms. Maltby elected to move forward with the site plan review.

Discussion on staying an application versus continuing the application continued.

Ms. Waters asked what this meant for the applicant; could he continue renting his property without a site plan? Mr. Freeman stated yes, as there is nothing that says he cannot, and Ms. Decoteau commented that no action can be taken until there is a clearly defined process in place.

MOTION: "To rescind the motion to accept the application as substantially complete."

Motion: F. Freeman

Second: S. Babin

Discussion: None.

Vote: 6 YES - 0 NO - 1 ABSTAIN

MOTION: "To stay the application for Site Plan Review; 2632 NH Route 175 [Map 210, Lot 16] Michael and Michele Maltby."

Motion: S. Babin

Second: P. Laufenberg

Discussion: None.

Vote: 7 YES - 0 NO - 0 ABSTAIN

MOTION: "To refund the applicants \$214.10 for application fees."

Motion: P. Laufenberg

Second: K. Waters

Discussion: None.

Vote: 6 YES - 0 NO - 1 ABSTAIN

2. APPLICATION/PUBLIC HEARING – Site Plan Review; 96 Star Ridge Road E34 [Map 210, Lot 6] Julia and Michael Magee. *Short Term Rental.*

Mr. Babin commented that the Planning Board has been asked by the BOS to do something they don't have legal teeth to do.

Ms. Decoteau opened the public hearing at 8:52 p.m. as a courtesy to the public in attendance.

Mr. Magee stated he and his wife purchased the property with the understanding that the town and condominium association allowed for their unit to be rented when they are not present. They purchased it for that purpose and have had no complaints and completed the site plan review as requested.

Ms. Decoteau commented that the Board was up against a wall with this and stated the same action that was taken with the previous applicant should be taken with this one.

Mr. Magee reviewed that included in the application is a statement from their HOA regarding rentals and they allow for short term rentals. Ms. Decoteau commented that the Planning Board makes decisions independent of HOAs and that information is irrelevant to the site plan review. Mr. Magee continued to say that the HOA is considering updating their rental rules at their next meeting and Ms. Decoteau reiterated that HOA rules are not the Planning Board's concern.

Mr. Laufenberg commented that the reason short term rentals were passed to the Board was because it was thought that there would be a change of use with residential to commercial. He commented that after speaking to the applicants, they are not using their properties as a main source of income and applications for site plan should never have been accepted. He apologized to the applicants and stated the Board was not ready for this.

Lengthy discussion and comments from abutters in attendance occurred regarding what was and wasn't allowed within the condo complex, and Ms. Decoteau stated that the issues being discussed need to be brought before the HOA, not the Planning Board.

MOTION: "To stay the application for Site Plan Review; 96 Star Ridge Road E34 [Map 210, Lot 6] Julia and Michael Magee."

Motion: S. Babin

Second: D. O'Donnell

Discussion: None.

Vote: 7 YES - 0 NO - 0 ABSTAIN

MOTION: "To refund the applicants \$315.38 for application fees."

Motion: F. Freeman

Second: D. Rivers

Discussion: None.

Vote: 7 YES - 0 NO - 0 ABSTAIN

MOTION: "To stay any applications in relation to Short Term Rentals."

Motion: S. Babin

Second: F. Freeman

Discussion: None.

Vote: 7 YES - 0 NO - 0 ABSTAIN

Mr. Laufenberg asked that a request be sent to the BOS to remove the web posting of the Site Plan Review requirement for short term rentals.

MOTION: "To retain a list of any applications in relation to Short Term Rentals in order to contact the applicants once a decision on Short Term Rentals is made."

Motion: S. Babin

Second: P. Laufenberg

Discussion: None.

Vote: 7 YES - 0 NO - 0 ABSTAIN

PRELIMINARY BUSINESS:

1. Discussion Regarding Proposed Zoning Amendments

A work session will be scheduled for November 10, 2022 at 4:00 p.m.

OTHER BUSINESS:

1. Preliminary Discussion: LCJ Holdings, LLC for proposed zoning amendments

Ms. Decoteau advised Attorney Hastings to keep the presentation brief, as it was a preliminary discussion only. Attorney Hastings commented that Brian Lash, owner of Owl's Nest, wanted to discuss the possibility of a zoning amendment and that there was a bit of urgency with town meeting coming up in March. Attorney Hastings acknowledged Mr. Lash who proceeded to go over the current and future projects at Owl's Nest.

Mr. Lash stated he would like to develop the parcel north of the main area at Owl's Nest for a 55+ community of 140 townhouses with an entrance coming from Owl's Nest as well as another off Route 175. Mr. Babin asked what the cost for one of the houses would be to buy and Mr. Lash stated somewhere between \$600,000 and \$700,000.

Attorney Hastings stated the proposed amendment would increase the density allowance in the Zoning Ordinance to create this community. He commented there is a need for elderly housing in Thornton and this could be a win for everyone as it wouldn't increase the number of students at the school and will provide more revenue for the town to offset taxes.

Mr. Babin asked if the proposed amendment would change the LDA, and Attorney Hastings stated the townhouses would not count towards the LDA.

652 Attorney Hastings stated he is not looking for a decision tonight but was wondering if they should still
653 pursue this amendment. Mr. Laufenberg asked Attorney Hastings if he was looking to get this
654 amendment on the 2023 warrant in March and he stated yes. The Board agreed to continue this
655 discussion at a later date, and that it can continue to be looked in to.

656
657 Ms. Waters exited at 9:59 p.m.

658
659 **ADJOURNMENT:**

660 **MOTION: "To adjourn at 10:02 p.m."**

661 **Motion:**

662 **Second:**

663 **Discussion: None**

664 **Vote: 6 YES - 0 NO - 0 ABSTAIN**

665 **Motion passes.**

666
667 Respectfully Submitted,

668
669 Kerrin Randall, Board Assistant