

TOWN OF THORNTON PLANNING BOARD

Approved on: Oct 17 2019
PB Initials: SB
Rec'd by Town Clerk on: 10/22/19
Town Clerk Initials: djm

Planning Board Meeting Minutes Thursday September 19, 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, F. Freeman, L. Hoyt, D. O'Donnell, P. Laufenberg, R. Sabourn
Alternates present: F. Gunter, G. Kimball, C. Schofield, J. Piehn
Members/Alternates absent: B. Dutto

Chairman S. Babin acknowledged that a quorum was present, there being six (6) Members present. He then appointed Alternate J. Piehn to sit in place of absent Member B. Dutto.

Others present: Brian Regan, Alfred Duguay

APPROVAL OF MINUTES: Upon distribution and review of the meeting minutes of August 15, 2019, the members took the following action:

MOTION: "To accept and approve the Minutes of the Thursday, August 15, 2019 meeting as amended."

Motion: F. Freeman

Second: D. O'Donnell

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

Motion passes: 4-YES, 0-NO, 3-Abstain (S. Babin, R. Sabourn, P. Laufenberg)

PRELIMINARY BUSINESS: None

COMMUNICATIONS:

1. State of New Hampshire Office of Strategic Initiatives (OSI) letter regarding the National Flood Insurance Program (NFIP)

B. Regan stated this was a fairly extensive packet in front of them. The representatives called and apparently met with other towns, but met with us and basically said it was a casual meeting. We discussed the Zoning Ordinance and how it affects flood plain provisions of the Zoning Ordinance. Subsequently we got this correspondence indicating the need for change. It is required that something be changed so that rises to the level that they feel is appropriate for the National Flood Insurance Program. It looks as though we will need to change some language in the ordinance to reflect what they are looking for. This is both a request and some background for you to go through as we might consider changing to meet their requests. We should do that in the next few months so that we can get it on the Town Meeting agenda. We would want to have it in place before the Town Meeting. S. Babin had a question under the actions needed by the Town; he wondered if any officials had expressed interest in being that administrator.

B. Regan stated for the Town's purposes there is supposed to be a Flood Plain Administrator.

R. Sabourn felt it was the Board of Selectmen unless someone was appointed because they are the authority.

L. Hoyt wondered if it would fall under Emergency Management.

B. Regan stated it would not in this case. If someone has a problem and wants to build in the flood plain and need a Letter of Map Adjustment or amendment, there is a process and someone has to administer the process town by town. This is someone who should be knowledgeable and able to handle this.

S. Babin stated then this Board's responsibility is to address number one specifically and number two would be addressed by the Selectmen under actions needed by the Town.

R. Sabourn said he was the representative from the Select Board that met with these people but did not have a chance to review this. He stated the letter came across as very terse compared to the conversation we had. He felt the biggest rub we had on this discretion was their concern for when somebody re-vamps or remodels a structure that's in the flood plain and they get to a point where the cost of renovations will exceed 50% of the current fair market value. Then everything has to be brought up to national code. They want us to be the policemen. They want us to basically go and look at every project requested that is shown in the flood plain. Of course, they are not willing to give us a decent flood plain map that is accurate and it will probably be decades before we see one. He stated he works in the flood plain on fairly regular occasions and feels their regulations do not make a lot of sense, in his opinion. He feels we do need to look at it; we are a part of the program. In order for our folks to get flood insurance, we have to try to be compliant but we also have to be somewhat realistic about things.

S. Babin stated she is suggesting that we amend four pages of our zoning regulations.

B. Regan stated they have given some background and some suggested language changes; he thinks it can be smoothly integrated. As far as the regulations go, it can be done at your leisure but if the flood plain part of the Zoning Ordinance needs adjusting, that would have to get prepared by the Town.

S. Babin stated it is a lot of work that could be done external to these meetings; if there were some people on this board that would like to get together as a sub-committee to address putting the language together so that we could put some focus to it.

F. Freeman offered the suggestion that everyone should read this and become familiar with it. It may not be as hard that a subcommittee is needed. He feels they should read her recommendations as a board and then maybe talk about a subcommittee next month.

J. Piehn asked if there was a timeframe for action that may affect people's ability to have flood insurance?

B. Regan stated he would place it on the agenda for next month.

REPORTS: None

UNFINISHED BUSINESS:

1. Short-Term Rentals-Discussion

B. Regan stated the Select Board received some inquiries and submitted a letter to Mr. Chairman requesting that the Planning Board consider the matter as to whether or not our current zoning ordinance would support any kind of clarification and/or enforcement authority on what has now become short-term rentals such as Air BnB's.

B. Regan stated he has done some research and compiled information and sharing it, part of which is in front of the Board. In the meantime, a letter was received from Attorney Puffer.

B. Regan stated the issue is real and it's growing. Every town in this state is dealing with it in one form or another – or will – and the issue is what we do about it.

F. Freeman stated the Board needs some definitions first. The Town has to come up with some definitions to talk about the various situations that are faced – owners present, owners not present, swapping homes when on vacations. The Board will need to look on this at a broad scale. He stated it is a business with nobody managing it.

P. Laufenberg stated it is not the purpose we want our neighborhoods to have. If it is a residential zone there are some expectations as to what a residential zone is.

S. Babin stated that some Towns address this issue by saying you can only park two cars in a driveway. He noted we have to protect businesses. The two biggest businesses in are dirt moving and motels.

J. Piehn stated another problem is the noise, parties, the numerous cars and amounts of people which becomes a safety issue for first responders.

P. Laufenberg stated there are two points. One is if we move forward with limiting, the owner has to be present. In the case of house-swapping, that is a whole different situation.

J. Piehn stated, after some research on the room and meal tax, the Air BnB does have a tax number to the State of NH.

B. Regan stated the issue is not with those sites, it's with the people who do it on their own. They aren't registering. The issue before the Board is whether the zoning ordinance contains enough or whether something needs to be added.

S. Babin wondered how the Town of Thornton can keep the quality of life and, at the same time, contain our Town.

F. Freeman stated we have zoning authority and zoning can address it. It may not be able to stop it, but it can address it.

R. Sabourn noted it was of interest to read about the Town who addressed the situation by not renewing permits if complaints were noted at their location. This makes the business go to the ZBA but also gives the neighbors an opportunity to show up and ask who is going to be the resident manager so that right from the start some ground rules can be made. He stated the big thing would be to have some kind of annual renewal so that if there is a problem, the permit would not be renewed.

Discussion continued regarding having management companies of sorts monitor the home rental businesses. Safety concerns also reiterated.

HEARINGS:

1. APPLICATION STATUS REVIEW- Site Plan Review-Amy, Charles & Linda Pitman property at 3447 U.S. Rte. 3, Tax Map 6 Lot 5-1, for development/change of use for operating a "boutique" winery, café & gift shop in and upon the property.

S. Babin read the foregoing and re-opened the matter for review.

B. Regan stated this matter was continued to August 15, 2019, to accommodate the applicants getting some things done as well as for the tolling of the appeal period for the roadway discontinuance which ran on Sept. 16th; no such appeal has been filed. That issue is not an issue at this stage. As we neared the August deadline, the applicants requested a continuance due to medical reasons.

A. Duguay stated they were going back to the plan of putting the parking on the side of the house because they have no intentions of wanting to purchase that piece of land.

S. Babin wondered if the Board had received the driveway permit yet.

A. Duguay stated he had not done that yet because he was trying to figure out what to do about the land. After discussion with his in-laws, it was determined that they did not need it.

B. Regan asked if there were crops growing on parts of the land and was told by A. Duguay that they will be moved.

B. Regan stated, for some background, that he corresponded with Mr. Miles at the State DOT regarding the status of the survey and application for the removal of the rights-of-way and they have not heard from the applicants.

B. Regan stated he also contacted Mr. Kosoff to see if he had heard anything; he said he had sent a letter stating he would need an accurate survey of the property in order to make an offer as to what he would sell it for.

B. Regan stated Mr. Kosoff had not heard anything back since.

A. Duguay stated they have not been able to afford to pay between \$2,000 and \$5,000 to have a survey done on a piece of property that does not belong to them.

S. Babin stated that foregoing the piece of land that Mr. Kosoff owns, the Board still needs a survey of the property that is going to be utilized for the business.

A. Duguay stated the only part of the property being utilized for the business is the inside of the house. He stated parking isn't going to be part of the business because they will be taking the house back to production only. It will not be open to the public.

F. Freeman inquired if the applicants were withdrawing their application to which

A. Duguay stated they will just be producing wine there; they will not be open to the public until they can figure out the survey and the parking. They did plan on putting a roof on the house this year.

S. Babin stated the Board must give either an approval within a certain period of time which is what the continuations were about and items were required in order to finalize that. The Board does not want to be the reason for holding up the building of a business.

A. Duguay stated they do have a retail outlet and stores; they just want to push it back to production only and not be open to the public for the time being.

B. Regan reminded the Board that the matter before them was site plan review because of change of use of the property to manufacture and sale of locally produced goods and products. Parking was a piece of the site plan review. The survey was required because the State offered to give up their rights-of-way and easements of the entire parcel that runs across and over the roadway that the Town has voted to discontinue. Those rights still exist.

A. Duguay stated they are not using any property that their rights-of-way are on at this point in time.

S. Babin stated he appreciates that there are not the funds to complete the survey, but everything still hinges on the survey.

B. Regan stated, to refresh the Board's recollection, the use that is before them for site plan review is only allowed by Special Exception. The Special Exception was presented by application to the ZBA before this came before the Planning Board. They approved the Special Exception, conditioned on the applicant fulfilling the driveway permit process with the State of NH DOT. The record will show that the applicant had a conditional approval given in the Spring with several conditions and some of them have been fulfilled; others have not. Additional time was given to fulfill those; they were not. In the interim no correspondence was made; no contact was made with the town. Basically, the applicant has an unfulfilled conditional approval.

J. Piehn recalled that the Board had extended and explained to the applicant that, if what we were asking was not met, that it could not be fulfilled, they would have to start over at some point; the Board could only hold it for so long.

J. Piehn further stated she thought everything was supposed to be met either in August or September. This has been going on for a really long time.

B. Regan stated it began, in earnest, in July of 2017.

Discussion ensued on what was now in front of the Board.

P. Laufenberg questioned whether the actions of the Board tonight were going to affect the applicant's current business at this point. What are we missing? If the conditions have not been met isn't it the end of the story?

A. Duguay stated they did not have the funds required to meet the conditions requested of them or to open up the business to more than just production.

F. Freeman clarified that the Board can only approve or disapprove what is before them; if Mr. Duguay wants to change it, he can but he will have to begin the process from the beginning with a changed application.

P. Laufenberg asked Mr. Duguay if he would still be able to do the manufacturing.

D. O'Donnell stated a new application is probably needed at this point; a new application for the use he wants now because of the different use. Mr. Duguay will have to start this again but the process will not be as difficult because he is only doing the manufacturing.

B. Regan and R. Sabourn both commented that Site Plan approval is still needed for the change of use/development.

A. Duguay stated the Board was technically taking their livelihood away.

S. Babin stated the Planning Board does not have the authority to shut them down.

F. Freeman reminded Mr. Duguay that he had stated he didn't want to go through with the application that was before the Board, which is what the Board voted on.

D. O'Donnell stated the Board will need a new application to vote on for what Mr. Duguay wants to do now and they can still move forward. The Board's process would probably be less involved.

S. Babin stated the Board is not making any actions to stop the applicants' business.

Mr. Duguay stated they never had a driveway permit.

S. Babin stated there is no access, now that the roadway is gone, that is officially recognized from either the State or the Town to access that piece of property. That roadway, which was owned by the State and the Town, has been given up. Therefore, there has to be a driveway permit.

Further discussion ensued regarding the roadway, boundaries and driveway issue ultimately leading to the need of a survey to determine that the driveway Mr. Duguay wants is on the applicants' property. It was made clear to Mr. Duguay that the Board of Selectmen's letter regarding the property and its use remains in effect and any actions taken by the planning Board tonight may impact which direction it takes.

MOTION: "To rescind the vote of conditional approval made at the Planning Board meeting of February 21, 2019 due to the failure of the applicants to fulfill all required conditions."

Motion: F. Freeman

Second: R. Sabourn

Discussion: None

Motion Passed: 7-Yes 0-No

MOTION: "That the board deny the Site Plan application on the basis that the applicants have failed to fulfill requested conditions essential to completion of the proposed plan, namely:

- 1. Submittal of final version of the Licensed Land Surveyor's completed survey in fulfillment of NH DOT notice/request dated December 13, 2018.**
- 2. Submittal of a copy of duly issued Driveway Permit (State-Rte. 3 and/or Town-Mirror Lake Road)."**

Motion: F. Freeman

Second: R. Sabourn

Discussion: None

Motion passes: 7-Yes 0-No.

OTHER BUSINESS: None

ADJOURNMENT:

The following motion was made at 7:17 p.m.

MOTION: "To adjourn."

Motion: L. Hoyt

Second: D. O'Donnell

Discussion: None

Motion passes: 5-YES, 0-NO

Respectfully Submitted,

Brian Regan, Planning Director

Thornton Planning Board Meeting

September 19, 2019

6:00 p.m.

Sign-in Sheet

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

Thank you!

Name

Address

1. Alfred J. Duguay 3447 US R-13
2. _____
3. _____
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