

# TOWN OF THORNTON

## Zoning Board of Adjustment

Approved on: 30 June 2022  
ZBA Initials: JMM  
Rec'd by Town Clerk on: 8/2/22  
Town Clerk Initials: ACB

### ZONING BOARD OF ADJUSTMENT MEETING MINUTES

May 26, 2022

#### WELCOME:

Chairman Joe Monti welcomed the members.

#### CALL TO ORDER BY CHAIR:

Mr. Monti called the meeting to order at 6:04 p.m. with the Pledge of Allegiance.

#### ROLL CALL BY CHAIRMAN:

Mr. Monti completed the roll call.

#### The following members were present:

Chairman Joe Monti, Vice-Chairman Jerry Sobolewski, Joan Marshall, Ken Miller, Alan Rawson  
Maureen Patti, Alternate

#### The following members were present via teleconference: None

#### The following members were absent: None

Also Present: Kerrin Randall, Board Assistant, Joe Peznola, James Boyd, Dana DeCosta

#### REVIEW/APPROVAL OF MINUTES:

Upon distribution and review of the meeting minutes of April 28, 2022 the members took the following action:

**MOTION: "To accept and approve the Minutes of the April 28, 2022 meeting as submitted."**

**Motion:** J. Marshall

**Second:** K. Miller

**Discussion:** None

**Vote:** 5-YES, 0-NO, 0-ABSTAIN

**Motion passes.**

#### PRELIMINARY BUSINESS:

Mr. Monti asked if the June 23, 2022 meeting could be rescheduled to June 30, 2022.

**MOTION: "To move the June 23, 2022 meeting to June 30, 2022 at 6:00 p.m."**

**Motion:** J. Marshall

**Second:** J. Sobolewski

**Discussion:** Mr. Monti clarified that the deadline for applications would remain the same; May 31, 2022.

**Vote:** 5-YES, 0-NO, 0-ABSTAIN

**Motion passes.**

Mr. Monti reminded the Board that there are several ZBA training materials on the NHMA website and encouraged that they be reviewed.

Mr. Monti reviewed that the hearing is scheduled for 6:30 p.m. and the Board will take a recess at 6:12 p.m. until that time.

# TOWN OF THORNTON

## Zoning Board of Adjustment

### HEARINGS:

1. True North Construction, LLC [Tax Map 16, Lot 1-07-01] "VARIANCE REQUEST;  
ARTICLE IV: TABLE OF USES. Proposes excavation in a residential zone.

Mr. Monti opened the public hearing at 6:30 p.m. and invited the applicant to present their request.

Joe Peznola, Hancock Associates, as agent for True North Construction stated the site is a 9.5-acre parcel on NH Route 175 on the Thornton and Campton town line. The owners approached his firm with the idea of building a two (2) acre pond, with future plans to build a house on the property. NHDES has been asked if there are wetland restrictions, and they responded that they would not have any jurisdiction until water is placed in the pond.

Mr. Peznola continued that the Planning Department advised that the proposed plan would qualify as a commercial excavation, as material would be taken from the site. He commented that the excavation would be temporary until the pond is dug and then would stop. There is an agreement between the owner and Mark Johnston for the removal of material, and the variance is being requested as the parcel is in a residential zone and commercial excavation is not allowed.

Mr. Peznola reviewed the requirements needed to grant a variance, and explained that the pond would be esthetically pleasing, comparing the process of excavation to that of Owl's Nest when they created their pond. He stated dust control, noise control, and time frame for excavation could be listed as conditions of approval. Mr. Peznola continued that the plans are fairly simple, and a driveway from NH Route 175 down to site will be developed to serve initially for the trucking of material and after will serve as the driveway to the future house.

Mr. Peznola stated the placement of the pond wouldn't affect any aquifers, and a clay barrier will need to be placed in the pond to keep the water in. The pond will be fed by a well and will take time to fill; overflow has been designed to prevent flooding once filled.

Ms. Marshall questioned the sustainability of a pond in that area; there should not be a giant mud hole in the ground. Mr. Peznola stated the gravel-pack well will keep the pond filled. Discussion on the water table depth continued, and Mr. Peznola stated it would take a little over one (1) million gallons of water to fill the pond.

Mr. Sobolewski asked if neighboring well levels is going to be a concern, and Mr. Peznola stated no; the pond will be filled over time. He stated that depending on the flow rating, it could take six (6) to seven (7) months to fill the pond.

Mr. Rawson asked how thick the clay lining will be and Mr. Peznola stated it would be 54-inches thick per USDA and will have rip-rap as well.

Mr. Monti stated the purpose of this hearing is to determine if a commercial excavation should be allowed in a residential zone. He commented that the applicant has repeatedly compared their proposed pond to that of Owl's Nest, but Owl's Nest kept all material on site and did not excavate. Mr. Monti stated a variance wouldn't be needed if the applicant kept the material on site, and a decision on the variance needs to be made on the merit of the current application, not what another property has done.

Mr. Monti asked why two (2) acres was being proposed and not something smaller and Mr. Peznola stated less than two (2) acres of material would not be advantageous for Mr. DeCosta or Mr. Johnston, as they have an agreement for the excavation.

# TOWN OF THORNTON

## Zoning Board of Adjustment

---

Mr. Monti commented that he is trying to determine if the primary goal of the applicant is to excavate the property, then build a pond or if they really want a pond. Mr. DeCosta stated he and his wife want to create a pond so they can build a house next to it, and if he happens to make a little money by having the materials removed it's a win-win.

Mr. Monti questioned the actual size of the proposed pond, as the plans presented show a three (3) acre pond. Mr. Peznola reviewed the plan and Mr. DeCosta was unaware that plans had been provided. Mr. Monti stated the application and corresponding documents say that a two (2) acre pond is being requested, and an updated plan with accurate scaling needs to be presented.

Mr. Monti estimated that, based on the math, the pond will be 20 feet deep, and Mr. Peznola stated it would be deeper than that; an updated depth would need to be on the plan.

Mr. Monti asked how traffic was going to be affected, as based on the math provided, there would be up to six (6) trucks a day going in and out of the lot. Based on that math and the amount of material that would need to be removed, it will take 14-months to complete the excavation with approximately 2,600 truck loads coming and going from the site.

Mr. Monti commented that Mr. Peznola has indicated that the excavation will be temporary and asked how long they are seeking the variance for. Mr. Peznola stated they would be requesting the variance for three (3) years. Mr. Peznola stated he understands the line of questioning and commented that the proposed will maximize the area and help the applicant fund the project.

Mr. Monti stated that the proposed plans, with the clay lining and rip-rap, may not be as cost effective as the applicant thinks. Mr. Peznola stated he can investigate the economics involved to ensure that the creation of the pond will be viable for the applicant, if that would help the Board render a decision.

Mr. Rawson asked if the contractor has reviewed the plans for viability, and Mr. Peznola stated yes but he has not vetted it economically. Mr. Monti stated the concern is, if the temporary variance is granted, the ZBA can put restrictions in place to ensure that what is being proposed is being done and if the time-period passes and work is not done, then the project cannot continue.

Mr. Monti recommended that the applicant contact the Conservation Commission Chair, Ms. Lewis, as she may have input or suggestions; this would add another potential wildlife area and NHDES will seek out the Conservation Committee for opinion if approved.

Mr. Sobolewski stated he is concerned with neighbors in area of the proposed excavation, as development in a residential neighborhood typically occurs within one (1) year, and if a variance of three (3) years is given, neighbors may have concerns. Mr. Sobolewski commented that nothing regarding landscaping was mentioned in the application and Mr. Peznola stated that would be up to the owner to determine. Mr. Rawson echoed Mr. Sobolewski's comments, and Mr. Peznola stated the area immediately bordering the pond would be loamed and seeded.

Mr. DeCosta commented, regarding the neighbors being affected, once the trucks leave the lot, they head south away from the site towards Owl Street. Mr. Monti clarified with Mr. DeCosta that the trucks would exit the property and head south through Campton, and Mr. DeCosta stated yes. Mr. Monti stated that, in his opinion, this would qualify for regional impact. He stated the Regional Planning Commission and Town of Campton should be notified of the public hearing should it be continued; he thought the project was to remain in Thornton, not cross town lines.

# TOWN OF THORNTON

## Zoning Board of Adjustment

Mr. DeCosta stated the Benton gravel pit is in a residential zone and has a pond and asked how that was allowed. Mr. Monti clarified that the Benton gravel pit in question has been in operation since before the excavation regulations were in place and have continually kept up on their permits.

Ms. Marshall asked the applicant if they have considered approaching the Planning Board as a reclamation, and Mr. Peznola commented that, to a degree, it is a reclamation. Ms. Marshall stated that should this go before the Planning Board for site plan, that will cover several items the ZBA has questions on like landscaping. Mr. Peznola stated he is not sure if a site plan is needed if the variance is granted.

Ms. Marshall stated the applicant is before the ZBA to see if they can dig a hole and excavate. Mr. Monti clarified that Planner Menici has made clear that should the variance be granted the applicant will still need to apply for an excavation permit as the Planning Board issues them.

A lengthy discussion on reclamation methods and the viability of creating the pond for all parties involved continued. Mr. Monti requested an estimate from the applicant for the amount of clay and rip-wrap needed to construct the pond, as this will factor into the number of trucks that will be traveling to and from the site.

Mr. Monti asked for public comment.

Mr. Boyd, abutter, commented that Mr. DeCosta has been a good neighbor and when he purchased his property, across the street from the subject parcel, the tract of land in question was all wooded. He stated that it is now clear cut and has been dug down and has been a disaster for him and his wife; the noise when the pit was in operation was not pleasant and the amount of dust that blows around is unbelievable.

Mr. Boyd stated 2,600 truck loads over three (3) years is not going to be a pleasurable experience for him and his wife, who works from home and will not enjoy it. He commented that the land is Mr. DeCosta's to do what he will, and that the notion of a pond is appealing, but the process to get it is not good.

Mr. Monti thanked Mr. Boyd and commented that the applicant needs to prove that there will be no impact on the neighborhood should the variance be granted. Mr. Peznola acknowledged that and will provide thoughtful solutions to the concerns.

Mr. Monti asked for any additional comments or questions and there were none. Mr. Monti thanked the applicant for being open to the conversation and stated that more information has been asked for and the public hearing should be continued.

The following actions have been requested to be addressed for the next meeting:

- Updated plan with accurate scaling will be provided
- Updated depth of the pond on the plan will be provided
- The applicant will contact Conservation Commission Chair, Ms. Lewis
- The Regional Planning Commission and Town of Campton to be notified of the public hearing.
- An estimate from the applicant for the amount of clay and rip-wrap needed to construct the pond will be provided.

**MOTION: "To continue the Public Hearing: True North Construction, LLC [Tax Map 16, Lot 1-07-01] "VARIANCE REQUEST; ARTICLE IV: TABLE OF USES; Proposes excavation in a residential zone to June 30, 2022 at 6:30 p.m."**

**Motion: J. Sobolewski**

# TOWN OF THORNTON

## Zoning Board of Adjustment

---

199           **Second:** K. Miller  
200           **Roll Call Vote:** 5- YES, 0- NO, 0- ABSTAIN  
201           **Discussion:** None  
202           **Motion Passes.**  
203  
204       Mr. Peznola, Mr. DeCosta, and Mr. Boyd exited the meeting.  
205  
206       Discussion regarding different options the applicant may have for reclamation continued. Mr. Monti  
207       clarified that the Planning Board would ultimately issue the excavation permit, and more information is  
208       needed from the applicant before the ZBA can make any decisions; conditions of approval can be added  
209       to an approval that may address other concerns the Board has.  
210  
211       Mr. Monti asked Ms. Randall if meeting materials that the Board receives as read-ahead could be posted  
212       on the town website for review by board members and the public and Ms. Randall stated she will  
213       investigate posting meeting materials online and report back to the Board.  
214  
215       **OTHER BUSINESS:** None  
216  
217       **ADJOURNMENT:**  
218       **MOTION: "To adjourn at 8:02 p.m."**  
219           **Motion:** K. Miller  
220           **Second:** J. Marshall  
221           **Roll Call Vote:** 5- YES, 0- NO, 0- ABSTAIN  
222           **Discussion:** None  
223           **Motion Passes.**  
224  
225       Respectfully submitted,  
226  
227       Kerrin Randall  
228       Zoning Board Assistant