

TOWN OF THORNTON PLANNING BOARD

Approved on: 8/15/13
PB Initials: TBP
Rec'd by Town Clerk on: 2/14/13
Town Clerk Initials: ZR

PLANNING BOARD MEETING MINUTES July 18, 2013

CALL TO ORDER:

T. Phillips called the meeting to order and led the pledge of allegiance at 6:10 pm.

ROLL CALL:

The following members/alternates were present:

T. Phillips, Chairman	S. Macintosh, Member	G. Kimball, Member	F. Freeman, Member
R. Gilman, Alternate	F. Gunter, Alternate	J. Paul-Hilliard, Ex-Officio	

T. Phillips appointed alternates F. Gunter and R. Gilman as voting members in place of S. Babin and C. Piantedosi respectively.

Informational: J. March Proposed Subdivision of Map 17 Lot 7-4103

J. March reviewed the basics of a proposed 4-Lot subdivision of land owned by D. Franklin located on Upper Mad River Road.

The plan includes 4 lots, with 3 lots having frontage off a new road and the 4th lot using frontage on Upper Mad River Road for the existing home and driveway.

J. March indicated he plans to submit an application for the regular meeting on August 15, 2013.

T. Phillips asked that a small table listing the amount of wetlands, steep slopes and any other exclusions be shown for each lot.

T. Phillips asked if 2 ft. contours would be shown on the plan and J. March agreed the plan will show 2 ft. contours.

J. March stated the wetlands will be identified on the plan.

T. Phillips noted that with the subdivision showing less than 5 lots the fire suppression requirements will not apply.

R. Gilman brought up the issue of the fire suppression requirements being triggered if/when the 7.6 acre lot 4 is further subdivided.

T. Phillips stated that any further subdivision of the lots in the subdivision would trigger the fire suppression requirements.

A discussion followed regarding the installation of sprinkler systems in each home rather than installing a fire cistern.

F. Gunter noted the close proximity of two ponds to the proposed subdivision which may be used for fire suppression.

J. March stated he is preparing a cost estimate for the road construction.

T. Phillips asked if the driveway locations will meet the 10 ft. from any boundary line setback.

J. March indicated that the driveway on each lot will comply.

The Board discussed the installation of utilities and the possibility of including some amount for utilities in the bonding amount to assure that utility services will be installed for each lot.

T. Phillips stated that prior to signing the plan either the utilities should be fully installed or there should be a letter from the utility company stating that nothing is holding them back from installing the power.

T. Phillips asked if the subdivision will have over half an acre of gravel roads which would trigger the drainage requirements.

J. March stated he did not believe the subdivision has a half acre of gravel roads but that there will be a drainage plan with the application.

S. MacIntosh suggested visiting the site during the application process and J. March was agreeable to that.

Macera Subdivision:

N. Decoteau stated the necessary documents have been submitted to fulfill the conditions of approval as noted in the Planning Board minutes of February 17, 2011 which are:

- Note #4 to be added to the covenants with the elevation added
- A copy of the recorded covenants and restrictions for the record
- L-Chip fee of \$25.00 made payable to the Grafton County Registry of Deeds.

T. Phillips and J. Paul-Hilliard signed four paper copies and the mylar of the plan titled "Phase II Subdivision Survey Plat for Stephen Macera" for Tax Map 15 Lot 6-4-1 with a revision date of Feb 2011.

R. Gilman asked for clarification on the final outcome of the Macera Subdivision with regard to the fire suppression requirements.

A lengthy discussion following regarding the implications of RSA 153:5 III which states "The state fire code and associated rules shall not require automatic fire suppression or sprinkler systems in detached one, or 2-family dwelling units in a structure used only for residential purposes".

There was some discussion as to whether the Planning Board can approve a plan where the developer offers to make the installation of sprinkler systems a condition of approval for a subdivision application.

The discussion included the enforcement of such a condition of approval.

F. Freeman agreed to look into the RSA regarding sprinkler systems.

PUBLIC HEARING: Excavation Permit Map 6 Lot 2-23

Application for a Permit to Excavate submitted by Caulder Construction, LLC for property owned by Casey and Kyle Caulder identified as Tax Map 6 Lot 2-23 located off LaBrecque Road.

T. Phillips opened the Public Hearing at 7:00PM.

J. Paul-Hilliard recused himself from the Public Hearing for an Excavation Permit on Map 6 Lot 2-23 explaining that he has a personal and corporate relationship with the Caulder family and supervises one of the abutters.

T. Phillips stated that although he has not particularly worked with Caulder Construction, he does work associated with property owners obtaining Excavation Permits.

None of the Board members nor the applicant's agent considered this to be a conflict of interest.

R. Sabourn gave a brief history of the Excavation Permit status of the property and stated as soon as the property owner realized his Excavation Permit had expired he began the process to apply for a new one.

R. Sabourn stated the application is much the same as the one previously approved with the following exceptions:

1. They are actively working the excavation site now.
2. The driveway has been relocated to the west side of the lot.
3. The abutting property was re-graded when the neighbor asked the pit operator to remove sand fill at the southwest corner of his home lot so it could be used to re-grade his yard around the existing and proposed buildings.

4. The temporary topsoil storage area has changed and is depicted on the plan
5. The original plan showed a stump dump location but the updated plan does not show one as the stumps were removed from the site and taken to a stump dump in the Woodstock area.
6. The excavation area has changed from 1.42 acres to 1.44 acres with a total disturbance area of 1.79 acres.

T. Phillips asked if there was more excavation planned for the abutting Greenwood property PID 6-2-24.

R. Sabourn stated no further excavation on PID 6-2-24 is planned but they wanted to show what had been done on the plan.

T. Phillips stated that if the situation of the pit operator doing work on the abutting property were to occur again it should be included in the application, but since there is no further changes to the abutting property planned it is not necessary to show it on the plan.

T. Phillips made it clear that any pit operator that plans to alter the approved excavation plan should come before the Planning Board prior to doing any excavation not shown on the approved plan and provide the Planning Board the opportunity to make the determination as to whether the work is incidental or not.

T. Phillips reviewed the application checklist the applicant submitted with comments as indicated:

- ✓ Signed Application Form
- ✓ Fees
- ✓ Excavation plan at a scale of 1" = 100' showing the following:
 - ✓ Name/Address of owner, excavator and all abutters.
 - ✓ Name/Address and signature of person preparing the plan, date of plan, scale and north arrow.
 - ✓ Sketch and description in square feet and acres of the location and boundaries of proposed and any existing excavations and the municipalities involved.
 - ✓ Zoning district boundaries of excavation area and within 200' of the area boundary.
 - ✓ Lot lines, public streets, driveways, intersections, rights-of-way, and all easements within 200' of the excavation.
 - ✓ Locations of existing buildings, structures, septic systems, and wells within 200' of the excavation.
 - ✓ Topography at contour levels of five feet or less.
 - ✓ All surface drainage patterns, including wetlands and standing water.
 - R. Sabourn indicated there are no wet areas or standing water and water does not leave the site.
 - ✓ Sketch and description of existing and proposed access roads, including width and surface materials.
 - R. Sabourn indicated the existing access road is +/- 14 ft. wide with a gravel surface.
 - ✓ Breadth, depth, and slope of proposed excavation.
 - ✓ Elevation of the highest annual groundwater table within or next to the proposed excavation.
 - R. Sabourn indicated the highest annual groundwater table is at least 12 to 14 ft. below the bottom of the excavation area. R. Sabourn indicated the finished grade would be 638 and the water table is probably deeper than 626.
 - ✓ Test pit data or log of borings to within either the seasonal high water table or a minimum of six feet below the proposed excavation depth.
 - ✓ Fencing, buffers, or other visual barriers, including height and materials.
 - R. Sabourn indicated the existing trees serve as barriers.
 - ✓ Measures to control erosion and sedimentation, water and air pollution and any hazards to public safety.
 - R. Sabourn indicated that no water leaves the site.
- ✓ Reclamation Plan at a scale of 1" = 100' showing the following:
 - ✓ Name, address and signature of person preparing the plan, date of plan, scale and north arrow.
 - ✓ All boundaries of the area proposed for reclamation and the land within 200' of these boundaries.

- ✓ Final topography at contour intervals of five feet or less.
- ✓ Final surface drainage pattern.
 - R. Sabourn indicated that the site drains internally – that no water leaves the site.
- ✓ Timetable as to fully depleted sites within the project area.
- ✓ Schedule of final reclamation activities, including seeding mixtures, cover vegetation fertilizer types, and application rates.
- ✓ Evidence of ability to be bonded.
 - R. Sabourn indicated a copy of the current bond is included in the application.

T. Phillips led the Board in a review of the following issues:

1. The excavation is not within 50' of a disapproving abutter or 10' of an approving abutter.
 - R. Sabourn stated the original application had letters of support from abutters.
 - N. Decoteau stated a signed receipt was returned for all of the abutters.
2. The excavation will not be unduly hazardous to the public welfare.
 - T. Phillips noted that no abutters were present to speak in opposition of the application.
3. Existing visual barriers will not be removed except to gain access to the excavation.
 - R. Sabourn confirmed there is no plan to clear out any more of the trees.
4. The excavation will not substantially damage a known aquifer.
 - T. Phillips stated that no information has been presented to show that the plan would damage a known aquifer.
5. The excavation is not closer than 150' to an existing dwelling or to a site for which a building permit has already been issued.
 - R. Sabourn reviewed the estimated distance from the house on PID 6-2-14 and found that it is not closer than 150'.
6. The excavation is not below road level within 50' of the public right-of-way.
 - R. Sabourn indicated that the elevation is 640 at Labrecque Road and the pit depth is 638.
7. Vegetation is maintained within the peripheral areas of the above mentioned requirements.
 - R. Sabourn indicated the vegetation is shown on the plan.
8. Fuels, lubricants, etc., are not stored on the site.
 - R. Sabourn indicated there would not be any fuel storage on the site.
9. If temporary slopes exceed 1:1 grade, an appropriate barricade is provided.
 - R. Sabourn stated the active pit area may have steep slopes.
 - T. Phillips requested that some sort of appropriate barrier be provided.
10. The excavation will not cause the accumulation of freestanding water for prolonged periods.
11. The excavation is not within 75' of any great pond, navigable river, or any other standing body of water ten acres or more in area.
12. The excavation is not within 25' of any stream, river or brook that normally flows throughout the year, or any naturally-occurring standing body of water less than ten acres, prime wetland or any other wetland area greater than five acres in area.

T. Phillips led the Board in a review of the reclamation checklist which included the following:

1. Tree seedlings will be planted in areas visible from a public way to replace trees that were removed.
2. All disturbed areas will be reseeded.
3. Provision is made for the removal of all stumps and other debris.
4. Soils will be graded according to soil type, and changes in slope will not be abrupt.
5. No standing bodies of water created by the excavation will be left if they create a public safety hazard.
6. The topography will be left so that drainage reverts to its original points and proportions of flow.

R. Sabourn confirmed that all of the reclamation criteria will be complied with.

T. Phillips led the Board in a review of the new Excavation Permit which included the following items:

1. Hours of operation:
Standard Hours of Operation permitted: 7:00am – 5:00pm Monday through Friday and 8:00am – 12:00 noon on Saturday with no operation on Sunday or Federal holidays.
2. Processing machinery:
Processing machinery to be located within the pit boundary
3. Blasting:
None permitted for this site.
4. Crushing:
None permitted for this site.
5. On-Site Storage – Solid Waste:
None permitted for this site.
6. Backhauling, Importing and Storage of Material:
None permitted for this site.
7. Posting of Bond/Security:
Amount of bond posted for this site to be \$5,000 with a renewal date of May 2, 2015.

There was some discussion regarding the Notice of Decision and the actual Excavation Permit and where the specific conditions of approval for the site will be itemized.

It was determined that the Notice of Decision will include the conditions of approval specific to the application as well as noting any waivers granted.

T. Phillips stated it is important that the Notice of Decision makes reference to the meeting minutes along with all of the information provided by the applicant.

T. Phillips suggested language such as the following be used: "in review of the plans submitted and testimony by the applicant as reflected in the meeting minutes the Planning Board approved the application with the following conditions".

MOTION: "To accept the application for a Permit to Excavate submitted by Caulder Construction, LLC for property owned by Casey and Kyle Caulder identified as Tax Map 6 Lot 2-23 located off LaBrecque Road as complete."

Motion: F. Gunter

Second: F. Freeman

Discussion: None

Motion Passes: 6 – Yes 0 – No

MOTION: "To approve the application for a Permit to Excavate submitted by Caulder Construction, LLC for property owned by Casey and Kyle Caulder identified as Tax Map 6 Lot 2-23 located off LaBrecque Road for a period of five years with the condition that warning of hazard signs be added to the areas where the slope is 1:1."

Motion: F. Gunter

Second: F. Freeman

Discussion: None

Motion Passes: 6 – Yes 0 – No

Informational: D. King / Map 16 Lots 4-31 & 4-33

The Board met with D. King regarding property located on Night Road at Map 16 Lots 4-31 and 4-33.

D. King explained that Lot 4-33 is a 1 acre parcel with two mobile homes on it and Lot 4-31 currently has no structures on it and is a .4 acre parcel that abuts Lot 4-33.

D. King stated both parcels are owned by the same people.

D. King asked the Planning Board how they would view a Boundary Line Adjustment that changes Lot 4-33 from a 1 acre parcel to a .4 acre parcel, and changes Lot 4-31 from a .4 acre parcel to a 1 acre parcel.

D. King stated that allowing such a Boundary Line Adjustment would provide the opportunity to bring the lots into better compliance with Zoning as the boundary line would fall in such a way as to allow 1 of the 2 existing mobile homes on Lot 4-33 to be on Lot 4-31.

A lengthy discussion followed regarding the issues relative to the parcels in question which included the non-compliance status of the lots, the difficulty of the owner selling the parcel with two mobile homes on it, the boundary line adjustment allowing both lots to have frontage and bring one lot into compliance with Zoning.

T. Phillips stated that the letter signed by the property owners, dated May 23, 2007 which reads in part, "We, owners of the property located at 19 Night Road, Thornton, NH 03223, agree and confirm that 1 (one) mobile home will be permanently removed when construction begins on new home. The second mobile home will be removed when the new home is completed" could be interpreted as meaning that after the construction of the new home is completed, the mobile homes would both be removed from the parcel, leaving just the new home as the only dwelling on the parcel.

D. King disagreed with that interpretation.

F. Gunter stated that the Planning Board would not have the authority to approve a Boundary Line Adjustment with a residual non-conforming .4 acre parcel and that a variance would be needed from the Zoning Board of Adjustment.

T. Phillips stated the Boundary Line Adjustment moves .6 acre from Lot 4-33 to Lot 4-31.

D. King pointed out that prior to the Boundary Line Adjustment Lot 4-34 had only 45 ft. of frontage and after the Boundary Line Adjustment it will have more than the required 100 ft. of frontage.

The Board discussed the status of the Night Road and the location of Night Road going through Lot 4-33 and thus reducing the amount of buildable space on that parcel.

T. Phillips stated the question of whether Night Road is a road upon which new lots can be created and whether Night Road can be used to comply with the frontage requirement needs to be determined.

D. King stated she understood that getting a variance from the ZBA would be required prior to making application to the Planning Board for a Boundary Line Adjustment.

R. Gilman noted the issue of creating an irregular shaped lot in the residual Lot 4-31.

T. Phillips listed the acreage requirement, road frontage requirement and shape of the lot as compliance issues that need to be addressed.

T. Phillips asked Board members if they had other concerns.

F. Gunter stated he would have no issue with merging the two lots but that in his opinion a Boundary Line Adjustment would require D. King to first visit the Zoning Board of Adjustment for a variance.

F. Gunter, F. Freeman and J. Paul-Hilliard indicated they would support a Boundary Line Adjustment if the ZBA approved.

G. Kimball stated in her opinion the ZBA needs to be addressed first.

S. MacIntosh stated she would not be in favor of the Boundary Line Adjustment as it would be approving non-conforming lots.

S. MacIntosh stated she will do some research on the status of Night Road.

T. Phillips stated that RSA 674:41 *Erection of Buildings on Streets* defines what type of roads lots can have frontage on.

D. King stated she understood that she needs to go to ZBA but did not understand why Night Road is an issue. T. Phillips stated he is not sure Night Road is an acceptable road to use as frontage and suggested that a legal opinion would be necessary to determine if Night Road can be used or not.

T. Phillips summarized by stating that only two members present would have difficulty approving a Boundary Line Adjustment if the ZBA approved of it.

S. MacIntosh stated that the survey needs to show the location of the structures and suggested that the ZBA would need to have a survey to look at.

T. Phillips encouraged D. King to be sure to address all of the non-compliance issues in one visit.

D. King thanked the Board for meeting with her.

Review of Excavation Regulations:

N. Decoteau asked the Board if any changes needed to be made to the final draft document they received at the July 11, 2013 workshop.

G. Kimball stated she had submitted some changes.

N. Decoteau confirmed the changes G. Kimball submitted have been made.

T. Phillips noted that a completed checklist should be included as part of the application items.

T. Phillips stated it should be clear to applicants that for any item on the checklist not submitted either a written waiver request or a written explanation of why the item does not apply should be included.

T. Phillips stated the standard hours of operation need to be changed to read *"7 am – 5 pm Monday through Friday and 8 am – 12 noon on Saturday, with no operation on Sunday or federal holidays"*.

Approval of Minutes:

MOTION: "To approve the minutes of June 20, 2013 as amended."

Motion: R. Gilman

Seconded: F. Freeman

Discussion: Changes were made at the meeting and a new document presented for signature.

Motion Passes: 7 – Yes, 0 – No

MOTION: "To approve the minutes of July 11, 2013 as presented."

Motion: R. Gilman

Seconded: F. Gunter

Discussion: None.

Motion Passes: 5 – Yes, 0 – No Abstained: F. Freeman, J. Paul-Hilliard

Planning Assistant Items:

N. Decoteau stated T. Avallone/Waterville Birches asked if the Planning Board would do a site visit prior to hearing his application at the August meeting.

The Board determined to do a site visit on Thursday, August 8, 2013 beginning at 6:00pm meeting in Waterville Estates.

The Board reviewed the availability, hourly rate, and experience of three planning professionals under consideration for assisting the Planning Board with work on the Zoning Ordinance.

R. Gilman shared some of his list of concerns relative to weak areas in the Planning Board regulations to include issues with Site Plan, Subdivision Regulation, Rules of Procedure as well as the Zoning Ordinance.

R. Gilman stated his concern regarding code enforcement in Thornton, the use of home sprinkler systems, the care and upkeep of cisterns and fire ponds, and how to deal with a Planning Board member absence when multiple meetings are missed.

T. Phillips stated his agreement that there are many issues to deal with relative the regulations that the Planning Board works with but that for now the priority is working on the Zoning Ordinance.

MOTION: "To engage the services of Gerald Coogan to assist the Planning Board with work on the Zoning Ordinance."

Motion: G. Kimball

Second: F. Gunter

Discussion: The members present expressed concern that the two members not present should be given the opportunity to express any serious disagreement with choosing G. Coogan.

N. Decoteau stated she would contact them on Friday, July 19, 2013.

Motion Passes: 7 – YES, 0 – NO

N. Decoteau reported to the Board the hourly rate of two attorneys, with one rate being five dollars an hour less than the other.

After a brief discussion, the Board determined to wait until after a ruling is made on the pending litigation before making a decision regarding legal representation for the Planning Board.

N. Decoteau stated a property owner in Fraser Meadows has asked whether the paving of Fraser Road and Holly Lane will be completed.

N. Decoteau provided a copy of the Planning Board meeting minutes relative to the Fraser Meadows Subdivision and a copy of the Irrevocable Letter of Credit for the Board to review.

After a brief discussion, the Board directed N. Decoteau to contact the developer and request that he update the Planning Board on the status of the road.

At 10:25 the following motion was made:

MOTION: "To adjourn."

Motion: G. Kimball

Seconded: F. Gunter

Discussion: None

Motion Passes: 7 – Yes, 0 – No

Respectfully submitted by:

Nancy Decoteau, Planning Board Assistant

Approved on: 8-15-2013