

TOWN OF THORNTON
PLANNING BOARD

Approved on: June 20 2013
PB Initials: SB
Rec'd by Town Clerk on: 2 July 13
Town Clerk Initials: JC

PLANNING BOARD MEETING MINUTES

May 16, 2013

CALL TO ORDER:

S. Babin called the meeting to order and led the pledge of allegiance at 6:00 pm.

ROLL CALL:

The following members/alternates were present:

S. Babin, Vice Chairman

John Paul-Hilliard, Ex-Officio

S. Macintosh, Member

G. Kimball, Member

F. Freeman, Member

R. Gilman, Alternate

F. Gunter, Alternate

S. Babin appointed F. Gunter and R. Gilman voting members of the Planning Board for the meeting.

DAY DRIVE / Whitehouse Subdivision

R. Deachman reviewed the history of the Whitehouse subdivision and the request to have Day Drive accepted as a town road at the 2011 Annual Town Meeting.

R. Deachman stated the Whitehouse family paid for White Mt. Survey & Engineering to perform an engineering review of Day Drive and cited the following items from the White Mt. Survey & Engineering report dated January 17, 2013:

- Item 4 on page 2 which indicates that the slope of a portion of Day Drive is 17%.
- Item 5 on page 2 which comments on the less than 5% grade at the intersection with NH RT 175.

R. Deachman stated the Whitehouse family has contacted the property owners to get the Association up and running and eventually share in the maintenance of Day Drive.

R. Deachman stated they will not be attempting to bring Day Drive in compliance with the town road standards as doing so is cost prohibitive.

S. Babin confirmed with R. Deachman that this was an update rather than a request for any action from the Planning Board.

S. Babin opened the meeting to public comment.

D. Day, property owner on Day Drive stated his concern that Lot 6, the excavation pit, was never reclaimed and that the bond expired May 2012 but not renewed.

C. Lennehan stated she never received a bill to renew the bond and agreed to contact the bond agency and pay to renew it.

E. Tibbetts, owner of Map 16 Lot 4-7B, stated that at the time she purchased her parcel it was sold under the premise that the gravel pit would be future green space and that Mr. Whitehouse would maintain the road until such time that the town took it over.

D. Day stated that it is his understanding that the road bond of \$27,500 was not to be released until the road was constructed to town standards. Released 2006.

D. Day stated it is his opinion that the Town should review the situation and consider the fact that mistakes were made by the planning board thus leaving the current issue with the property owners on Day Drive and suggested that the Town should accept Day Drive as a town road.

R. Tryder, owner of parcel Map 16 Lot 4-27 stated the property listing used at the time she purchased the lot included the following wording: "private road at this point but soon to be brought up to town specs".

R. Tryder noted that property owners on Day Drive signed to maintain the road once it was brought up to the town specs and to date it is not up to town specs.

R. Tryder stated her opinion that since the road is not in compliance with Town specs it is therefore not the responsibility of the property owners to maintain the road.

R. Tryder stated the property owners did sign a Road Maintenance Agreement which says in her opinion that the property owners agree to pay one sixth of the cost of maintenance once the road is brought up to town specs.

R. Tryder referred to the Achin Acres Bylaws and stated that the Homeowners Association does not exist until the road is brought up to town specs.

R. Tryder referred to Article 8-100, 8-200 and 8-300 of the Achin Acres Bylaws which read as follows:

- 8-100 The Association will assume the responsibilities of maintenance, repair, and snow Removal of Day Drive starting the date the Town of Thornton gives them written notification the Town has accepted the road as complete as agreed upon with the Planning Board which approved the Subdivision.
- 8-200 If the road is not completed as agreed upon, the Town will use the bond/letter of credit, which expires June 2, 2006, (\$27,500) to complete the road. As per 8-100 the Association would assume the responsibilities of maintenance, repair, and snow removal.
- 8-300 Until the Town accepts the road as complete; Bob Whitehouse will continue the maintenance and repair of the road. The association will assume the responsibilities of snow removal and sanding of the road.

F. Freeman asked if the terminology used in the Bylaws "until the road is completed as agreed upon" and "until the Town accepts the road as complete" means necessarily that the road was being built to meet the town road standards.

R. Deachman summarized by stating that at this point the reality of the situation that everyone is going to have to deal with is that the Whitehouse estate does not have the resources to fulfill the promises Mr. Whitehouse may have made.

R. Deachman stated his intent was to keep the Planning Board updated.

D. Day restated his opinion that the problem is all being put on the property owners and it shouldn't be as there were things that were supposed to be done during the process which were not followed through on.

D. Day stated that in his opinion the town dropped the ball and it is time for the town to step up and accept Day Drive as a town road.

S. Babin stated the Board members will review the information presented.

J. Demeritt referred to the Board of Selectmen letter dated October 20, 2010 which cited the following deficiencies in Day Drive:

- Guardrails have not been installed and there is a steep slope on the side where the excavation pit abuts.
- At the end of the cul-de-sac there is another steep slope hindering access to the last lot of the subdivision. In order to provide access to the last lot there will need to be significant fill brought in.
- Existing road grade from top of hill to cul-de-sac is greater than 15%.
- Brush too close to travelled surface.

J. Demeritt stated the Board of Selectmen minutes of August 18, 2010 reflect the Selectmen's decision not to accept Day Drive as a town road because it does not meet the town road standards.

J. Demeritt stated that there are other roads in town which have not been accepted because they do not meet the town road standards.

J. Demeritt added that the developer could have asked for an inspection prior to paving to assure the road met the town standards but chose instead to go ahead and pave it so that now the cost to bring the road into compliance with town road standards is cost prohibitive.

F. Gunter added that at this point there is very little that the Planning Board can do regarding Day Drive.

PUBLIC HEARING: G. Warren Pemi River Campground Amendment to Site Plan Approval

S. Babin opened the Public Hearing at 6:30pm.

S. Babin read the notice as posted:

Application for an amendment to Site Plan submitted by property owner Gerald R. Warren for property identified as Tax Map 16 Lot 3-50, located at 2458 US Rt. 3, known as the Pemi River Campground to allow the placement of camping cabins on four existing camp sites.

G. Warren stated he had met informally with the Board and was seeking to get clarification on what he can do to put camping cabins in the campground.

N. Decoteau stated that during the informal discussion with G. Warren at the April 18, 2013 Planning Board meeting the Board and Mr. Warren agreed to schedule a site visit which took place on May 2, 2013.

N. Decoteau stated that the minutes reflect that during the site visit the Planning Board verified that the structures measure greater than 400 sq. ft. and were being stored at the gravel pit across the street from the campground.

N. Decoteau stated that under the direction of the Planning Board Chairman out of consideration for the applicant she communicated to Mr. Warren that legal counsel advised the Planning Board that perhaps a Variance from the ZBA should be obtained prior to approving the structures as they do not meet the State definition by being greater than the 400 sq. ft. requirement as well as other concerns.

N. Decoteau stated that there is also a concern regarding the application stating camping cabins when in essence the structures would be better defined as recreational vehicles as far as fitting in to the Zoning Ordinance and the Floodplain Development Ordinance.

F. Gunter clarified that camping cabins have to be raised above the floodplain and so forth to meet the Floodplain Development Ordinance.

F. Gunter stated that if the structures are on a chassis that can be moved then they are called recreational vehicles and have different criteria to comply with the Floodplain Development Ordinance.

F. Gunter stated that the proposed units exceed 400 sq. ft. and thus do not meet either definition for a camping cabin or recreational vehicle thus an application under either label would have required a variance.

S. Babin asked what G. Warren planned to do with the proposed units in the case of a flood.

G. Warren responded that he plans to move them out of the campground.

S. Babin stated that if the intent is to move the unit off site during a flooding event it would fit into the Zoning Ordinance better if the units are called a recreational vehicle.

G. Warren responded that he understood.

S. Babin stated the issue is that the unit exceeds the 400 sq. ft. requirement included in the definition thus it would require a variance from the Zoning Board of Adjustment.

G. Warren stated that had been explained to him and asked how changing the units to measure 400 sq. ft. or less would affect the application.

F. Freeman stated that if the units are 400 sq. ft. or less there would be no need for a variance and other Board members agreed.

G. Warren stated that he is applying to place recreational vehicles on existing campsites.

G. Warren stated that everything he wants to do is in the recreational vehicle category as they will be moved off site and rest on a jacking system and plans to place them on sites within the campground with easy access.

G. Warren stated he plans to modify the units to measure 400 sq. ft. or less and eliminate the problem.

S. Babin clarified that the Board is not telling G. Warren what to apply for or to change the dimensions but rather wants to assure that G. Warren has what he need to make an informed decision.

G. Warren stated he is applying for recreational vehicles and plans to modify them to meet the 400 sq. ft. size requirement.

J. Piehn stated if the application changes to recreational vehicles, the definition states they must be towable by a light duty truck and asked how the units will be moved to remain in compliance with the Thornton Floodplain Development Ordinance.

S. Babin confirmed the definition of "recreational vehicle" in the Thornton Floodplain Development Ordinance reads:

Recreational Vehicle is defined as:

- Built on a single chassis
- 400 square feet or less when measured at the largest horizontal projection;
- Designed to be self-propelled or permanently towable by a light duty truck; and
- Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

G. Warren stated he has a one ton dump truck to move the recreational vehicles and the Board agreed that it falls within the definition of "light duty" truck.

J. Piehn stated when she contacted the State they confirmed that "camping cabins" require rooms and meals tax accessed.

J. Paul-Hilliard noted that the Planning Board needs to exercise its due diligence as there is pending litigation against the town.

S. Babin stated that the applicant will need to return to the Planning Board next month to present his application with the changes discussed: the placement of recreational vehicles that measure 400 sq. ft. or less on existing campsites.

G. Warren asked if he can move the units back onto the campground to work on them as there is no possibility to work on them in their current location.

The Board reviewed the wording of the Board of Selectman letter dated November 26, 2012 which stated the following:

At the Board of Selectmen meeting on October 31, 2012 the following motion was approved:

"To require Gerry Warren to immediately move the buildings out of the flood plain until such time as the site plan review process is followed, and that once moved, the two units will be used for temporary storage only until permission is approved."

S. Babin directed G. Warren to request permission from the Board of Selectmen to move the units back onto the property and stated that the next scheduled meeting is May 29, 2013 at 10:00am.

R. Gilman asked if there would still be two units in each recreational vehicle.

G. Warren stated that there would be 2 units in each recreational vehicle.

R. Gilman asked if a recreational vehicle is required to have fixtures in it and what fixtures are in a camping cabin.

S. Babin stated it does not seem that there are specifics in the definition regarding that issue.

S. Babin noted the state definition of dependent vehicle is "a recreational vehicle which does not have toilet and lavatory facilities".

S. Babin confirmed with the applicant that he is applying for a Dependent vehicle recreational vehicle.

MOTION: "To continue the public hearing to 6:30pm on Thursday, June 20, 2013."

Motion: F. Gunter

Seconded: F. Freeman

Discussion: None

Motion Passes: 7 – Yes, 0 – No

G. Kimball reminded the applicant to get on the agenda for the Board of Selectmen.

G. Warren stated it is his opinion that they can move the units back on site to work on them.

S. Babin stated that G. Warren needs to get permission from the Board of Selectmen as the directive to move the units came from the Board of Selectmen.

S. Babin closed the public hearing at 6:57PM.

PUBLIC HEARING: Adoption of Updated Excavation Regulations

S. Babin opened the Public Hearing at 7:00pm and read the Notice as posted:

The Planning Board will hold a Public Hearing to consider adopting the updated Excavation Regulations.

A copy of the updated Excavation Regulations is available on the town website:

<http://www.townofthornton.org/> and at the Thornton Town Office located at 16 Merrill Access Road in Thornton, NH.

S. Babin introduced NH Department of Revenue Administration/Gravel Tax Appraiser, Mary Pinkham-Langer, who joined the Planning Board at the table.

Several pit owners were present and they engaged the Planning Board in discussion regarding the proposed amended excavation regulations.

The pit owners expressed concern regarding the additional requirements in the amended regulations such as hiring a licensed surveyor and other changes which place an undue burden on the pit operators to spend more money to prove they are not in violation.

S. Babin explained that the Planning Board has a responsibility to comply with RSA 155 E but is also willing to work with the pit operators to come up with excavation regulations that work for both the Town and the pit operators.

M. Pinkham-Langer explained some of the changes to RSA 155 E which need to be included in the town's regulations.

The Board asked if the pit operators would be willing to meet together with M. Pinkham-Langer and N. Decoteau to review the Excavation Regulations in detail and come up with a list of concerns/changes citing specific wording in the proposed regulations for the Planning Board to consider at another Public Hearing.

The pit operators agreed to meet on Tuesday, June 4, 2013 beginning at 6:00pm at the Town Office with M. Pinkham-Langer and N. Decoteau.

MOTION: "To allow N. Decoteau to meet with the pit operators and M. Pinkham-Langer to review the proposed excavation regulations in detail and report back to the Planning Board with a specific list of their concerns."

Motion: G. Kimball

Seconded: J. Paul-Hilliard

Discussion: None

Motion Passes: 7 – Yes, 0 – No

S. Babin closed the Public Hearing at 7:45pm.

INFORMATIONAL: T. Avalon Phase II

T. Avalon reviewed the history and status of the Birches development in Waterville Estates which was proposed in the 1970's with the following three large parcels:

- Black Birches, 10.5 acres, approved in the late 1970's for 10 units with construction started on 5 units.
- Yellow Birches, 15.0 acres, had preliminary drawings before the Planning Board in the 1980's but were never approved and never started.
- Gray Birches 12.0 acres, approved in the 1980's for 10 units which were never built.

T. Avalon stated that they are ready to begin the planning/approval process for Phase 2 of the Birches project and will be submitting plans for approval.

T. Avalon submitted a copy of the Planning Board letter dated April 28, 2011 which reads:

"Waterville Birches LLC has the Planning Boards approval to finish 4 more units in Phase 1, formerly known as the "Black Birches" upon receipt of a building permit from the Board of Selectmen.

Waterville Birches LLC has approval to build up to 21 more units in Phase 2, formerly known as "Gray and Yellow Birches". Waterville Birches LLC is required to come before the Planning Board before any construction in Phase 2, to show any changes from the previous plan. With the approval of the duplexes instead of 3 and 4 unit buildings, Waterville Birches LLC will be submitting changes to the Planning Board to show the new proposed unit locations.

There will be no change to the road location or elevations as already approved and minimal changes to drainage plans from the units."

T. Avalon stated that in Phase 2 they will propose to build single detached units with garages of the same design as the units built as duplexes.

T. Avalon stated they are working on writing bylaws for the proposed 21 single units to be part of a separate condominium association.

T. Avalon stated the road will not be changed and surface drainage will be modified to reflect the fact that less paved surfaces will result in building single units as opposed to 4-unit building.

T. Avalon noted that they have already installed two water cisterns in the development.

T. Avalon stated they would be proposing to build the road and extend water/sewer lines as they go, accessing 3 or 3 single unit sites at a time.

T. Avalon asked if there are specific issues he should address when making the application for Phase 2.

J. Paul-Hilliard asked about the segment completion schedule.

T. Avalon stated currently they are building 2 units a year but see an increased interest in the real estate market.

S. Babin asked if they intend to construct the road in compliance with the Town Road Standards.

T. Avalon stated that is their intention.

T. Avalon stated they are building the last unit in Phase 1 and anticipate starting Phase 2 Aug/Sept 2013.

INFORMATIONAL: S. Macera Subdivision

G. Jencks reviewed the history and status of the subdivision conditionally approved in 2011 and stated they were under the impression the subdivision was completed and recorded and recently discovered that the conditions were not met.

The Board reviewed the Planning Board minutes of February 17, 2011 which read:

*“John March, Surveyor, presenting plan. No abutters present. Discussion was on the plan’s notes. Board member Gilman questioned Note #3 regarding the requirement of sprinkler systems. “Who would be responsible for the maintenance upkeep of such systems?” Board member Phillips requested that Note# 4 would read “No fill shall be placed in the floodplain elevation to be added. DES approvals submitted. A motion was made and seconded to approve this subdivision contingent on the following:
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.
VOTED Final 7 – 0.”*

G. Jencks indicated when they applied for and gained conditional approval for the subdivision it seemed the shared driveway was acceptable but understands there is an issue with Lot 1 and Lot 10 on the plan not having frontage on a road.

G. Jencks indicated the property owner, S. Macera, has his property up for sale and is willing to work with the Planning Board to do what is necessary to finalize the subdivision and get it recorded.

G. Jencks stated if the frontage is an issue the property owner is willing to reconfigure Lot 1 and Lot 11 by dissolving Lot 10 and splitting the 2.11 acres of Lot 10 into Lots 1 and 11.

G. Jencks discussed possible options with the Planning Board and determined that he will meet with J. Marsh to revise the subdivision to address the frontage issue and return to the Planning Board.

F. Freeman reminded G. Jencks that the 3 conditions in the 2011 approval still need to be met as well.

S. MacIntosh stated she did not like the irregular shape of the changed Lot 1.

R. Gilman stated his concern regarding the sprinkler systems.

The Board members confirmed that the State does not allow the Planning Board to make sprinkler systems a mandatory requirement.

R. Gilman asked then what the fire protection method would be.

G. Kimball referred to the Planning Board minutes of November 18, 2010 which included the statement:

“7. Surveyor to check to see if a dry hydrant is able to be installed. Will check in with Fire Chief and State relative to the Shoreland Protection Act.”

S. Babin summarized that the following issues should be considered when the applicant returns to the Planning Board: road frontage, irregular shaped lots, fire protection measures as well as the 3 items of the conditional approval.

APPROVAL OF MINUTES:

MOTION: “To approve the minutes of April 18, 2013 as presented.”

Motion: F. Freeman

Seconded: G. Kimball

Discussion: None.

Motion Passes: 7 – Yes, 0 – No

MOTION: “To approve the Non-Public Session minutes of April 18, 2013 as presented.”

Motion: G. Kimball

Seconded: F. Freeman

Discussion: None.

Motion Passes: 7 – Yes, 0 – No

MOTION: "To approve the Site Walk and Workshop minutes of May 2, 2013 as presented."

Motion: G. Kimball

Seconded: F. Gunter

Discussion: None.

Motion Passes: 6 – Yes, 0 – No S. Babin Abstained

PLANNING ASSISTANT ITEMS:

N. Decoteau presented the amended copy of the updated Master Plan for signature and stated the following two items have been corrected: 1) the updated Natural Resources map for Figure 5 was inserted and 2) on page 33 the reference to the Current Use data was updated to 2012.

Vice-Chairman S. Babin and Ex-Officio member J. Paul-Hilliard signed the document. The Board agreed that Chairman, T. Phillips will sign the document as well.

N. Decoteau stated that D. Day is not interested in continuing as an alternate for the Planning Board. The Board determined to be prepared at the next meeting to suggest some candidates to serve as an alternate for the Planning Board.

The Board reviewed the following two letters sent out by the Planning Board as directed at the last meeting:

1. Letter to S. Benton dated April 24, 2013
2. Letter to B. Benton & Helen Steele dated April 24, 2013

The Board agreed to hold a workshop session on Thursday, June 6, 2013 at 6:00pm.

The Board was reminded that the next regular meeting is Thursday, June 20, 2013.

ADJOURNMENT:

At 9:07pm 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: 6.20.2013