

TOWN OF THORNTON PLANNING BOARD

Approved on: 3/20/2014
PB Initials: TBP
Rec'd by Town Clerk on: 3/26/14
Town Clerk Initials: JH2

Public Hearing Meeting Minutes Thursday, February 20, 2014

Chairman T. Phillips called the meeting to order at 6:05pm and led the pledge of allegiance.

The following members/alternates were present:

T. Phillips, Chairman	S. Babin, Vice Chairman	M. Peabody, Ex-officio
G. Kimball, Member	F. Freeman, Member	C. Piantadosi, Member

Six voting members were present.

T. Phillips opened the Public Hearing at 6:15pm:

N. Decoteau read the notice into the record: Public Hearing to determine if the Planning Board has jurisdiction to consider a Site Plan Application submitted by CBDA Development, LLC for a Recreational Campground on property located off US Rt. 3 identified as Tax Map 10 Lot 8-8 owned by Carlton C. Ham was continued to 6:15pm, February 20, 2014. If the Planning Board finds that it has jurisdiction, the applicant may proceed to submit the application for consideration.

N. Decoteau read into the record the following email sent on Feb 21, 2014 from J. Cronin to M. Serge with the request to pass it along to the Planning Board.

"I spoke to Mr. Anagnost. He believes we provided adequate information to support the application and we hope the application is accepted for jurisdiction tonight. If so, we will be prepared to present the plan at the next meeting."

The Board members reviewed the minutes of the November 21, 2014 meeting.

The Board discussed what would be necessary to meet the criteria of being "materially differs in nature and degree".

T. Phillips stated his understanding that there are two situations in which the Planning Board may take jurisdiction on an application submitted by the same applicant for a similar project which has previously been denied.

T. Phillips continued explaining that one way a Planning Board may accept jurisdiction over an application that may be similar to one previously denied is when outside circumstances change – such as new regulations that would apply to that specific application.

T. Phillips noted that no outside circumstances have changed that would affect the CBDA-2 application.

T. Phillips stated a second way a Planning Board may accept jurisdiction over an application that may be similar to one previously denied is if the application is found to materially differ in nature and degree from the one previously denied.

T. Phillips stated his opinion that at a minimum the new application must have changed in such a way that it addresses the reasons for denial for the initial application.

T. Phillips clarified by stating the questions: "What was the basis of denial?", "How does the new application address those concerns?" and "Are there other items that the new application fails to address or does address that would meet the concerns brought out in the Public Hearing process?"

T. Phillips stated his opinion that at the very minimum the reasons for denial should have been dealt with in the new application and asked if Board members if there are other nuances to the denial that should be considered when comparing the new application to the initial one.

T. Phillips asked Board members if they agreed to the criteria that need to be met.

The Members acknowledged their agreement.

T. Phillips asked if Board members reviewed the Notice of Decision for the initial application.

Board members stated they have reviewed the document.

T. Phillips summarized the two basic reasons for denial of the previous application:

- 1) not being open to the general public
- 2) the initial application presented park model units with a greater amount of permanency than what is intended in the Thornton Campground Regulations and State statutes.

T. Phillips stated that the Board should determine first if the new application addresses the two issues as stated and then proceed to consider if the criteria of being "materially different in nature and degree" is met or if other issues remain to be considered.

T. Phillips closed the Public Hearing and the Board began to deliberate.

C. Piantedosi indicated that as the initial application progressed it became clear that the proposed use was more like a mobile home park or park model park.

C. Piantedosi stated that in the initial application the density, the 60 year leasing of sites and the less transient aspect of the customers were items of concern brought out during the Public Hearing process.

C. Piantedosi indicated that the second application suggests using a mix of recreational vehicles.

T. Phillips stated he recalled that the new application still proposes the use of park model units.

F. Freeman recalled that the applicant indicated the exact mix of types of recreational vehicles would be determined by the market.

F. Freeman recalled that the applicant was asked if the potential for 219 park models to be on the sites exists.

S. Babin read from page 4 of the Nov. 21, 2014 Planning Board minutes: *"D. Anagnost did admit that because 219 of the sites are open to any kind of recreational vehicle the possibility exists for 219 sites to be occupied by park models and added there is also the potential for 267 sites to be occupied by tents."*

S. Babin stated his opinion that it may be likely that the business model which was part of the initial application now pending in State Supreme court was that 247 sites would be occupied by park models, and that the second application does not require that sites have to be occupied by park models but allows for the potential for that to exist.

S. Babin reminded the Board members that the test is "does the application materially differ in nature and degree from the first application".

T. Phillips stated as far as not being open to the public the second application was presented to have addressed that issue.

T. Phillips noted that the initial application allowed park models to be leased for up to 60 years and could potentially be on site for the full 60 years which was another issue that contributed to the denial of the application.

S. Babin stated one of the items that needs to be included in the conversation as to whether the second application materially differs in nature and degree is referenced in the Notice of Decision where it states "a parcel of land on which two or more sites are occupied or intended for temporary occupancy for recreational dwelling purposes only.

S. Babin stated in his opinion the second application does not propose campsites being temporarily occupied if the proposal includes the option for 219 park models.

S. Babin stated that the campsites not being occupied on a temporary basis contributed to the denial of the first application.

S. Babin stated that in the second application there is potential for 219 sites to be occupied by park models which are not generally set up for temporary use and added that the temporary occupancy of the campsites has not been addressed in the second application.

T. Phillips stated that it is likely that Board members may not all agree on the exact length of time of where something moves from temporary to permanent but that in the previous application all Board members agreed that the potential for a term of 60 years was stretching the imagination on the use of the word temporary.

S. Babin stated his opinion that although the second application does contemplate the placing of a tent on campsites, it appears that the business model is the same as the initial application where park models could potentially be placed on 219 campsites.

S. Babin again reminded the Board the criteria is whether the second application materially differs in nature and degree from the initial application.

T. Phillips stated that there is some disagreement as to what is to be "temporary": 1) the occupancy of the campsite by a recreational camping unit or 2) the occupancy of the recreational camping unit by patrons.

F. Freeman stated that the differences of opinion that resulted in the denial of the initial application will be heard before the court and that for now it is important to determine whether the second application materially differs in nature and degree.

S. Babin stated the tossing around the application of the word temporary and what it applies to would dismay every English teacher he has ever had as the rhetoric of the sentence is clear and Grafton County Court has upheld the Planning Board's interpretation of the sentence.

S. Babin stated the sentence clearly says "a parcel of land on which two or more campsites are occupied or intended for temporary occupancy".

S. Babin continued by adding that it is a parcel of land that is temporarily occupied, not a human being occupying a tent.

S. Babin stated the initial application was denied because it was not compliant with RSA 216 and proposed more than a temporary occupancy of the land.

S. Babin stated his opinion that the second application proposes the same more than temporary occupancy of the land and thus is not materially different in nature and degree.

T. Phillips stated his opinion that if park models had been completely prohibited in the second application it would have created a different scenario but that it is difficult to square the use of a park model with the term temporary.

S. Babin stated the reasons for denial were clearly laid out in the Notice of Decision for the initial application.

S. Babin stated that it is unfortunate that the applicant did not submit a second application that materially differs in nature and degree from the first because the Planning Board would love to work with them.

S. Babin stated that the second application could have stated there would not be anything on the property for a period of time in excess of 30 days, which would have clearly established they were proposing something materially different from the initial application.

F. Freeman stated his opinion that the second application does not materially differs in nature and degree from the initial application.

MOTION: "To deny jurisdiction over the Site Plan Application submitted on October 9, 2013 by CBDA Development, LLC for a Recreational Campground on property located off on US Rt. 3 identified as Tax Map 10 Lot 8-8 owned by Carlton C. Ham based on the fact that the new application does not materially differ in nature and degree from the initial application."

Motion: S. Babin

Seconded: F. Freeman

Motion Passes: 6 – Yes, 0 - No

T. Phillips moved to the next item on the agenda:

Informational: Organic Farming - Map 15 Lot 4-15 (old Blake Mt. Motel) US Rt. 3

A. Khachatryan stated he is considering purchasing the old Blake Mt. Motel site and putting in a commercial farm on the site and wanted to discuss what the options/concerns are related to doing such a project.

A. Khachatryan stated they would be interested in establishing a farm to raise pigs and include a slaughter house as well.

T. Phillips thanked him for coming in to discuss the process involved.

M. Peabody asked if they planned to use the existing small buildings.

A. Khachatryan responded that the small cabins would be removed and new barns to house approximately 150 pigs would be built.

A. Khachatryan stated the pigs would be raised and slaughtered on site.

M. Peabody asked if there will be a heavy odor at and around the farm.

A. Khachatryan stated that there are new techniques to minimize the amount of smell that results from raising pigs.

T. Phillips stated that the abutters will be noticed as part of the site plan review process and will likely have similar questions/concerns regarding living close to the pig farm so it would be good for the applicant to develop a well thought out plan to address the potential concerns.

A. Khachatryan stated the farm will be compliant with USDA regulations and be up to date with the latest practices to minimize the negative effects of pig farming.

S. Babin stated the State of NH has guidelines that regulate the square footage required per animal.

S. Babin stated the concerns of abutters will need to be considered.

C. Schofield noted that traffic, septic design and water supply will also need to be considered.

T. Phillips stated that it is an allowed use for the zone and that a Site Plan Application would need to be submitted.

T. Phillips explained that the site plan approval process allows for abutters to voice their concerns and for the Planning Board to ask applicants how they plan to address the concerns brought up.

A. Khachatryan asked if he could send letters to the neighboring properties and invite them to attend another informational discussion at the planning board so that he can have a better idea of what issues may need to be addressed.

T. Phillips agreed that A. Khachatryan could invite neighboring property owners to attend an informational discussion with the planning board.

N. Decoteau indicated that she could help A. Khachatryan obtain a list of mailing addresses for the neighboring properties.

A. Khachatryan stated he would send letters out asking the property owners in the neighborhood to attend an informational/conceptual Planning Board meeting in the future.

T. Phillips moved to the next item on the agenda:

Planning Assistant Items:

1. Excavation Regulations:

N. Decoteau explained that the current Excavation Regulations have a typo in that one of the Roman numerals used in the outline is used twice so she renumbered the document and has a corrected copy for signature.

Motion: "To sign the corrected Excavation Regulations."

Motion: F. Freeman

Seconded: S. Babin

Discussion: None

Motion passes: 6 – Yes, 0 – No.

2. Stipends for Planning Board Members

N. Decoteau reported that Planning Board members do not receive a stipend because in part such compensation would cause them to lose certain civil immunity protections under RSA 508:17 since they would no longer be volunteers but instead part time town employees.

N. Decoteau stated that none of the neighboring towns provide a stipend to Planning Board members.

3. Correspondence from J. McCormack

J. McCormack submitted a letter on behalf of F. Dubach stating in part the following:

"It is my general impression that the original subdivision approval required that all homes constructed in the subdivision be equipped with a fire suppression sprinkler system. I am also aware that NH RSA 155-A:10 was amended in 2010 by adding a subparagraph VI which mandated that *"the state building code review board shall not adopt or enforce any rule requiring the installation of fire sprinkler systems in any new or existing detached one or two-dwelling unit in a structure used only for residential purposes."* Consequently, since Mr. Dubach's single family residence will be used only for residential purposes, the condition of subdivision approval requiring fire sprinkler systems is unenforceable. Mr. Dubach is aware that he may opt to install such a system, but it is not and cannot be required that he do so. "

N. Decoteau stated that Mr. Dubach obtained a Zoning Compliance Application which indicated he would be installing a sprinkler system, and after the fact Mr. Dubach determined that he would not do it if it is not enforceable.

T. Phillips stated that it appears that the legislature has removed the local authority for a planning board to work with applicants on a flexible approach to implementing Thornton's fire protection requirements in the subdivision regulations, which is unfortunate as it seems to have worked well in the past; in the future the Planning Board should only approve cisterns for satisfying the fire suppression requirements of new subdivisions.

T. Phillips asked if the Town of Thornton requires a waiver of emergency services be signed.

N. Decoteau stated that Thornton does not use the form.

N. Decoteau stated that a copy of the letter will be attached to the ZCA for the record.

4. Draft letter to the editor:

C. Piantedosi agreed to work with N. Decoteau on a letter to the editor regarding the zoning amendments.

5. Review of Ballot:

The Board reviewed the six page ballot for the zoning amendments.

6. N. Decoteau reported that she will be away for the next regular meeting.

Board members reviewed a letter delivered prior to the start of the meeting by alternate member R. Gilman. Several members stated their appreciation of the many years of service R. Gilman dedicated to the Planning Board.

The Board reviewed meeting minutes ready for approval:

MOTION: "To approve the minutes of January 7, 2014 as amended."

Motion: S. Babin

Second: G. Kimball

Discussion: N. Decoteau stated the corrections submitted by members of the board were made.

Motion Passes: 6-Yes, 0-No

The Board reviewed meeting minutes ready for approval:

MOTION: "To approve the minutes of January 16, 2014 as amended."

Motion: G. Kimball

Second: F. Freeman

Discussion: N. Decoteau stated the corrections submitted by members of the board were made.

Motion Passes: 4-Yes, 0-No

C. Piantedosi and T. Phillips abstained

The following motion was made at 8:05pm:

MOTION: "To adjourn."

Motion: S. Babin

Seconded: G. Kimball

Discussion: None

Motion Passes: 6 – Yes, 0 – No

TOWN OF THORNTON PLANNING BOARD

AGENDA

Thursday, February 20, 2014

6:00PM

A. Call to Order – Salute of Flag:

B. Roll Call:

T. Phillips, Chairman

S. Babin, Vice Chairman

M. Peabody, Ex-officio

G. Kimball, Member

F. Freeman, Member

C. Piantedosi, Member

S. Macintosh, Member

R. Gilman, Alternate

F. Gunter, Alternate

C. **6:15PM PUBLIC HEARING: Continued Public Hearing**

Determine Jurisdiction to Consider Site Plan Application / CBDA Development, LLC

At 6:15pm a Public Hearing will be held to determine if the Planning Board has jurisdiction to consider a Site Plan Application submitted by CBDA Development, LLC for a Recreational Campground on property located off on US Rt. 3 identified as Tax Map 10 Lot 8-8 owned by Carlton C. Ham.

D. Informational: Map 15 Lot 4-15 (old Blake Mt. Motel) 4.0 acres in Industrial Zone. Organic Farming

E. Planning Assistant Items:

a) Sign Excavation Regulations: Corrected Roman Numerals

b) Stipends for Planning Board Members Information

c) Correspondence:

a. J. McCormack

d) Draft letter re: amendments

e) Review of Ballot

F. Approval of Minutes:

a. Jan 7, 2014

b. Jan 14, 2014

G. Adjournment

Planning Board
February 20, 2014
SIGN IN SHEET (Please Print)

1	J. Bennett	24	
2	JAY BUENVO	25	
3	Byron O'Donnell	26	
4	Donna O'Donnell	27	
5	Cindy Schofield	28	
6	Arnak Khachatryan	29	arnak77@gmail.com 617-201-1485
7	Davit Hakobyan	30	8652424867 skarm1981@gmail.com
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