

# TOWN OF THORNTON PLANNING BOARD

## Planning Board Meeting Minutes Thursday, July 17, 2014

### CALL TO ORDER – SALUTE OF FLAG:

T. Phillips called the meeting to order at 6:01pm and led the pledge of allegiance.

### ROLL CALL: The following members were present:

T. Phillips, Chairman	G. Kimball, Member	M. Peabody, Ex-Officio
F. Freeman, Member	S. Macintosh, Member	B. Regan, Member
F. Gunter, Alternate	R. Gilman, Alternate	

R. Gilman was appointed to be a voting member in place of S. Babin.

### Whitehouse Pit Reclamation: D. King & C. Lenahan

D. King reviewed the circumstances regarding the status of the Whitehouse Excavation Pit site.

D. stated that the property has been listed and that there is a buyer interested in the property but there is a concern regarding the reclamation process necessary at the site.

C. Lenahan recollected that at the site visit in 2008 the only concern was for two areas to be seeded.

C. Lenahan stated Mr. Whitehouse had spent considerable time working on the slopes, and that over the years, nature has taken care of much of the reclamation.

C. Lenahan stated that the bond has been renewed and now has an expiration date of May 9, 2015.

M. Peabody recalled the Planning Board discussed planting of trees on the slopes by Day Drive and the cul-de-sac area.

N. Decoteau stated that she had taken photos of the property earlier in the day after obtaining permission from the property owner to do so.

The Board members reviewed the photos and video taken earlier that day.

T. Phillips noted that from the photos/video provided that it appears there are areas adjacent to Day Drive where there is concern that the slopes may have the potential to undermine the road which would need to be addressed.

M. Peabody noted that all of the debris; the tires and other items on the pit floor need to be removed.

D. King stated that they are looking for a list of exactly what is expected for reclamation.

D. King noted that the property is on the Tax Deeding list which has a deadline of August 6, 2014.

D. King stated they are trying to complete the process of selling the property prior to August 6, 2014.

N. Decoteau provided the text of RSA 155-E:5 Minimum and Express Reclamation Standards in the form of a worksheet that the Planning Board could use as a guideline to see that the requirements are met.

T. Phillips noted the RSA states that except for exposed rock ledge, all areas which have been affected by the excavation or otherwise stripped of vegetation shall be spread with topsoil or strippings, if any, but in any case covered by soil capable of sustaining vegetation, and shall be planted with seedlings or grass suitable to prevent erosion.

T. Phillips noted that the RSA states areas visible from a public way, from which trees have been removed shall be replanted with tree seedlings, set out in accordance with acceptable horticultural practices.

The general consensus of the Board was that there are no areas visible from a public way.

F. Gunter stated that years ago the Planning Board asked that a steep area of the pit access road be addressed and that Mr. Whitehouse took care of it.

F. Gunter stated his concern that the debris pile be removed and that the ground be examined for oil/fuel oil spills.

T. Phillips summarized that there are two issues for the Planning Board to consider: meeting the requirements of the State statutes and examining the slopes to see if there is a danger of undermining Day Drive.

T. Phillips stated that the issues require a site visit.

D. King reminded the Board of her time crunch.

T. Phillips stated that the Board has provided a good idea/starting point as far as what needs to be addressed on the site.

T. Phillips referred to the text of RSA 155-E:5 Minimum and Express Reclamation Standards which list out the items to consider.

F. Freeman stated that from the photos reviewed an area of concern appears to be the slopes along Day Drive.

T. Phillips summarized that prior to visiting the site, the area of concern is the slopes areas which need to be covered with vegetation.

F. Gunter suggested that individual members visit the site and submit their concerns in writing.

The Board reviewed the worksheet and stated that without the site visit, which could produce other concerns, the following items would be of concern:

- Areas still in need of covering and plantings include the slopes, specifically those adjacent to Day Drive.
- There are no areas that are visible from a public way which would require any plantings.
- All of the debris; tires, barrels, metal, etc. still needs to be removed.
- A determination as to the slope areas that need to be graded to natural repose can only be made after a site visit.
- A determination needs to be made regarding if the existing pond is a health/safety hazard: and if so, what method shall be used to remove it
- Prior to a site visit it does not appear to be any drainage issues to address.

Board members agreed to visit the site and submit their observations/concerns.

T. Phillips asked if any abutters had concerns.

No members of the public present expressed concern.

#### **PUBLIC HEARING - Excavation Permit Application**

Public Hearing to consider an Excavation Application submitted by Leigh E. Johnston for an Excavation Permit on property located off US Rt. 3 identified as Tax Map 15 Lot 4-69 owned by Leigh E. Johnston.

T. Phillips opened the Public Hearing at 6:30pm.

T. Phillips noted that the application is only the second one submitted under the new Excavation Regulations.

T. Phillips began the review by checking the submission items.

T. Phillips stated that if there was a reclamation plan submitted in the past and that there are not changes to what was submitted then a new plan completed by a certified engineer would not be necessary.

Board members agreed that it was an appropriate way to deal with existing pits.

D. Johnston stated the plan on file was not prepared by a certified engineer.

D. Johnston stated the bond in the amount of \$10,000 is in place with an expiration date of October 23, 2014.

D. Johnston stated that the pit only has two acres open at a time per the state statues.

D. Johnston stated there is a monitoring well on site which is dry.

D. Johnston stated the abutters list is attached to the application.

The Board agreed that the submission items were satisfactorily submitted.

T. Phillips asked the Board members how they want to consider the 2006 plan under the new regulations given that the applicant is not proposing an expansion over and above what was originally submitted.

F. Gunter stated his opinion that the Board should accept the plan.

F. Freeman and G. Kimball agreed.

T. Phillips added that the applicant is not requesting any changes from the existing plan and that there have not been any complaints on the operation of the pit so there is currently no need to request additional information.

D. Johnston provided a brief overview of the plan and the current condition of the pit.

T. Phillips continued with a review of the application checklist items.

T. Phillips asked if there are any steep slopes where someone trespassing on the property could injure themselves if they fell down the slope.

D. Johnston responded that the slopes are all 2:1 or 3:1.

T. Phillips asked if there are safety barriers provided for active slopes with a grade of 1:1.

D. Johnston responded that there is a berm in front of the temporary steep slopes.

The Board reviewed RSA 155-E:4-a. VI which reads "Where temporary slopes will exceed a grade of 1:1, a fence or other suitable barricade shall be erected to warn of danger or limit access to the site".

T. Phillips asked if the applicant would agree to place a danger sign to provide a warning of the steep slope.

After a brief discussion, the applicant agreed to place a danger sign.

T. Phillips asked the Board if they had any concerns which would require additional information on the plan.

F. Freeman confirmed with the applicant that they intend to continue operating the pit as they have for the past several years and then stated he is satisfied with the plan as presented.

T. Phillips stated that the Board is satisfied with the excavation plan and asked the applicant if the reclamation plan is shown on the same plan.

D. Johnston stated that they only keep 2 acres open at a time and reclaim the excavated areas as they move along.

D. Johnston added that they can only estimate what the final slopes will be as they have not run out of material yet but intends for the slopes to have a final grade of 3:1.

T. Phillips stated that a written statement for the reclamation plan will be sufficient.

T. Phillips discussed with the Board members the need for the Planning Board to be consistent in how they consider each Excavation Permit application under the new regulations.

T. Phillips reviewed the checklist for the minimal operational standards and made the following comments as noted:

1. The excavation is not within 50' of a disapproving abutter or 10' of an approving abutter.  
The Board requested a copy of the letter from the abutter allowing excavation within 10ft. of the boundary line.
2. The excavation will not be unduly hazardous to the public welfare.  
The Board determined that past visits to the site and the operational history of the site indicates there is not a hazard to the public welfare.
3. Existing visual barriers will not be removed except to gain access to the excavation.  
The Board determined that the application meets this criterion.
4. The excavation will not substantially damage a known aquifer.  
The applicant stated that the one monitoring well is dry.
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.  
The applicant testified that the application is in compliance with this criterion.

T. Phillips stated that should the excavation area extend to closer than 150' to an existing dwelling or to a site for which a building permit has already been issued the applicant would need to communicate with the Planning Board to request a waiver and/or submit proof that the abutter approves.

6. The excavation is not below road level within 50' of the public right-of-way.  
The Board determined that the application meets this criterion.
7. Vegetation be maintained along the peripheral areas of the gravel pit.  
The Board determined that the application meets this criterion.
8. Fuels, lubricants, etc., are not stored on the site.  
The applicant stated no fuels are store on the site.
9. If temporary slopes exceed 1:1 grade, an appropriate barricade is provided.  
The applicant agreed to put up a danger sign in the area of the steep slope.
10. The excavation will not cause the accumulation of freestanding water for prolonged periods.  
The applicant stated that freestanding water does not collect for prolonged periods on the site.
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.  
The Board determined the application complies with this criterion.
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.  
The Board determined the application complies with this criterion.

T. Phillips asked if there was anyone from the public with comments/concerns.  
There were no concerns from the public.

**MOTION: "To close the public hearing."**

Motion: F. Freeman

Seconded: G. Kimball

Motion Passes: 7 – Yes, 0 – No

**MOTION: "To approve the Excavation Permit application submitted by the property owner, Leigh E. Johnston, on property located off US Rt. 3 identified as Tax Map 15 Lot 4-69 with an expiration date of July 31, 2019 and the following conditions:**

- **Hours of operation: 7:00am – 6:00 pm Monday through Friday and 8:00am – 12 noon on Saturday with no operation on Sunday.**
- **Processing machinery: No processing machinery is on the site.**
- **Blasting: None permitted for this site.**
- **Crushing: None approved for this site.**
- **On-site Storage – Solid Waste: None approved for this site.**
- **Backhauling, Importing and Storage of Material: None permitted for this site.**
- **Posting of Bond/Surety: Current Bond is in place with NGM Insurance Company, 4601 Touchton Road East Ste. 3400, Jacksonville, Florida 32245-6000 in the amount of \$10,000, with a renewal date of October 23, 2014. Permit is conditionally approved upon the renewal of said bond throughout the term of the permit.**
- **A written reclamation plan must be submitted.**
- **A copy of the letter from the abutter approving excavation within 10' must be submitted.**
- **Appropriate signage will be added in compliance with RSA 155-E:4-a where temporary slopes exceed a grade of 1:1 to warn of danger or limit access to the site.**

Motion: F. Freeman

Seconded: B. Regan

Discussion: None

Motion Passes: 7 – Yes, 0 - No

**PUBLIC HEARING - 2-Lot Subdivision: Duffy**

Public Hearing to consider an application for a 2-Lot Subdivision submitted by Sabourn & Tower Surveying and Septic Design, PLLC on behalf of the Albertina Duffy Estate for property identified as Map 10 Lot 5-1 located off Church Street in Thornton, NH.

T. Phillips opened the public hearing at 7:30pm.

S. Tower presented the application and referenced the cover letter submitted by R. Sabourn which summarizes the circumstances around the proposal.

S. Tower stated the roughly 62 acre parcel will be subdivided into a 21 acre parcel with frontage on NH Rt. 175 and leave the remaining 41 acre parcel which has frontage on Church Street.

S. Tower stated a NH State Driveway permit has been obtained for the parcel with frontage on NH Rt. 175 identified as Lot 2 on the plan.

S. Tower noted that several waivers have been requested due to the fact that it is a wood lot and there is no current plan to further subdivide the parcel as outlined in the cover letter dated June 27, 2014.

The Board reviewed the checklist and the following waiver requests:

**Waivers for Lot 3: (40.9 acre lot)**

- a. Pre-Checklist #12: Data to determine approximately the location, bearing and length of every street line
- b. Pre-Checklist #13: Sufficient data to determine approximately the location, bearing and length lot line
- c. Pre-Checklist #14: Sufficient data to determine approximately the location, bearing and length and boundary
- d. Pre-Checklist #23: Identification of all existing and other essential features within 30' of the boundary line
- e. Pre-Checklist #25: Flood Hazard Areas
- f. Final-Checklist #8: The final lot lines of each lot
- g. Final-Checklist #9: The final dimensions of each lot
- h. Final-Checklist #10: The final frontage of each lot

**Waivers for Lot 2 and Lot 3:**

- a. Pre-Checklist #19: Location, name and width of all existing water courses for both lots.
- b. Pre-Checklist #20: Location, name and width of all existing standing water for both lots.
- c. Pre-Checklist #21: Location, name and width of all existing rock ledge for both lots.
- d. Pre-Checklist #22: Location, name and width of all existing stonewalls for both lots.
- e. Pre-Checklist #24: Contours of existing topography at not more than ten (10) foot intervals for both lots.
- f. Pre-Checklist #29: Proposed system and location of water supply for both lots.
- g. Pre-Checklist #30: Proposed system and location sewage disposal for both lots.

T. Phillips read the cover letter dated June 27, 2014 submitted by R. Sabourn, LLS:

*Bertha Albertina Duffy hired John R. French, LLS to prepare a compass and tape survey of the subject property in October of 1973. Mr. French's plan was never recorded. That French plan is the basis for the depiction of what we have designated Lot 3 in the "Overview Plan" on our new plat.*

*Bertha Albertina Duffy died on March 12, 1990. Her will left the subject property to her four surviving children, Barbara Patterson, Gene Duffy, Richard Duffy, and Ernest Duffy in equal, undivided shares. In addition, her will left a single building lot to be created out of the subject lot to son Richard Duffy.*

*By deeds dated 2000 and 2001, Gene Duffy conveyed his ¼ interest share in the subject lot to Richard Duffy and his wife Hilda.*

*In May of 2001, Gene, Barbara, and Ernest conveyed title to a 1.19 acre lot to Richard Duffy to satisfy the will's requirement for the single building lot to Richard. This lot was created and is the current tax Lot 10-5-1-1, now owned by Wayne & Janet Lottman.*

*In July of 2006, Ernest Duffy conveyed his undivided ¼ interest share in the subject property to Barbara and Morris Patterson.*

*As of this date, Richard and Hilda Duffy own an undivided ½ interest in the subject property, and Morris and Barbara Patterson own the other undivided ½ interest.*

*The purpose of the proposed subdivision is to divide the subject property into two tracts of approximately equal values. Barbara is to receive the proposed Lot 2 as her share, and Richard will receive the residual land shown on the plan as Lot 3.*

*To my knowledge, there are no plans for further subdivision of either parcel at this time. Barbara intends to ultimately give her portion to one of her children, and Richard intends to keep Lot 3 indefinitely at this time.*

*Given the stated subdivision purpose, the size of the two new lots, and the fact that there is no anticipated further subdivision of either parcel, it seems reasonable to request waivers for many of the standard subdivision items that are outlined on your application checklists, due to the great additional project cost that would be incurred to accomplish such a simple goal.*

*All boundary lines for Lot 2 have been surveyed for this application, and the new line between Lots 2 and 3 has been blazed. All other lines relative to the residual part of the property that Richard will acquire (Lot 3) were not re-surveyed as part of this project due to his wishes.*

*I am personally quite familiar with the subject property and can state without any hesitation that there are many acres of "countable" area on each of the proposed lots, and similarly, there are many places where a subsurface septic system could be installed on either as well. Without having some idea where a future building site might be developed, it seemed unnecessary to perform soil testing for either parcel, so we have not done so at this time.*

*Thank you for your consideration of the various accompanying waiver requests. Please advise if additional data needs to be submitted.*

T. Phillips suggested that the cover letter be referenced so that the record reflects what information the Board used in consideration of the granting of waivers.

The Board reviewed the completed preliminary checklist and associated waiver requests.

The Board reviewed the completed final checklist and associated waiver requests.

**MOTION: "To grant the following waiver requests after considering the specifics of the application and based on information provided in the cover letter from Sabourn & Tower Surveying and Septic Design, PLLC:**

**Waivers for Lot 3: (40.9 acre lot)**

1. Pre-Checklist #12: Data to determine approximately the location, bearing and length of every street line
2. Pre-Checklist #13: Sufficient data to determine approximately the location, bearing and length lot line
3. Pre-Checklist #14: Sufficient data to determine approximately the location, bearing and length and boundary
4. Pre-Checklist #23: Identification of all existing and other essential features within 30' of the boundary line
5. Pre-Checklist #25: Flood Hazard Areas
6. Final-Checklist #8: The final lot lines of each lot
7. Final-Checklist #9: The final dimensions of each lot
8. Final-Checklist #10: The final frontage of each lot

**Waivers for Lot 2 and Lot 3:**

1. Pre-Checklist #19: Location, name and width of all existing water courses for both lots.
2. Pre-Checklist #20: Location, name and width of all existing standing water for both lots.
3. Pre-Checklist #21: Location, name and width of all existing rock ledge for both lots.
4. Pre-Checklist #22: Location, name and width of all existing stonewalls for both lots.
5. Pre-Checklist #24: Contours of existing topography at not more than ten (10) foot intervals for both lots.
6. Pre-Checklist #29: Proposed system and location of water supply for both lots.
7. Pre-Checklist #30: Proposed system and location sewage disposal for both lots.

Motion: B. Regan  
Second: M. Peabody  
Discussion: None  
Motion passes: 7 Yes – 0 No

**MOTION: "To accept the plan 'Subdivision for The Albertina Duffy Estate' as complete after considering the specifics of the application and based on information provided in the cover letter from Sabourn & Tower Surveying and Septic Design, PLLC, and having granted the requested waivers."**

Motion: F. Freeman  
Second: G. Kimball  
Discussion: None  
Motion passes: 7 Yes – 0 No

T. Phillips asked for public input.  
K. Levin asked if the lots could be further subdivided.  
T. Phillips responded that at this time the applicant has no plans to further subdivide.  
T. Phillips continued that any further subdivision or development of the parcels would require a Public Hearing which would include notice to the abutters.  
No further concerns were raised by those present.

**MOTION: "To close the public hearing."**

Motion: G. Kimball  
Seconded: F. Freeman  
Motion Passes: 7 – Yes, 0 – No

Upon acceptance of the application as complete and review of the materials presented the following motion was made:

**MOTION: "To approve the plan 'Subdivision for The Albertina Duffy Estate'."**

Motion: B. Regan  
Second: M. Peabody  
Discussion: None  
Motion passes: 7 Yes – 0 No

The Board signed the mylar and paper copies of the plan.

#### **APPROVAL OF MINUTES:**

**MOTION: "To approve the regular meeting minutes of June 19, 2014 as amended."**

Motion: B. Regan  
Second: M. Peabody  
Discussion: The references made to a 8 ft. by 12 ft. sign were changed to a 8 ft. by 2 ft. sign  
Motion passes: 6 – Yes, 0 – No M. Peabody abstained.

#### **OTHER BUSINESS:**

1. The Board reviewed a letter from the Board of Selectmen dated July 9, 2014 stating in part the following:  
"Although the Board agrees that an ex-officio member from the Board of Selectmen is necessary, they do not feel that having multiple alternate members is beneficial for the Planning Board or the Town in general. J. Paul-Hilliard and B. Benton have resigned from their alternate positions for this reason and the Board agreed that they will not reappoint for the alternate ex-officio position at this time."

T. Phillips updated the members regarding the status of the search for a Planning Director.

It was suggested that perhaps the job title should be changed to Planning Assistant in order to get more applicants.

T. Phillips suggested a consideration should be given to increasing the stipend for the Select Board member who is appointed to serve as Ex-officio member to the Planning Board.

2. N. Decoteau reminded the Board to consider the need for Capital Improvement Committee members.

## **PUBLIC HEARING - Adoption of Amended Thornton Campground Regulations**

Public Hearing to consider the adoption of the amended Town of Thornton Campground Regulations which were adopted by the Planning Board in August of 2000. The full text of the document under consideration is available for review at the Town Office and the town website: <http://www.townofthornton.org>.

T. Phillips opened the Public Hearing at 8:30pm.

N. Decoteau reported that B. Regan researched the validity of the statement on the existing Campground Regulations which states: "RSA 485 Env-Ws-1005.12 requires that campgrounds have subdivision approval for all campsites."

B. Regan stated that he found the statement is outdated and no longer applies and recommended it be removed. The Board agreed.

T. Phillips stated his concern regarding identifying the campground season as beginning on May 1<sup>st</sup> and ending on Oct 31<sup>st</sup> which is a period of time greater than 180 days.

T. Phillips noted he would like to research to see if there is any conflict with the NH Subsurface requirements.

T. Phillips pointed out that the proposed Campground Regulations require "Compliance with New Hampshire RSA's (Revised Statutes Annotated) and New Hampshire's Code of Administrative Rules applicable to Recreational Campgrounds is required" which would include the criteria for approving septic systems.

T. Phillips noted that the state may have 180 days as the threshold for allowing a downsizing of a septic system from what would be required for a more permanent use of the land.

T. Phillips summarized by stating that if the camping season is defined as something longer than the State subsurface regulations there is a potential conflict.

After some discussion the Board agreed to allow time to research the issue.

A member of the public asked if there would be another public hearing on the Campground Regulations prior to approving them.

T. Phillips responded that there would be another Public Hearing to consider the Campground Regulations on August 21, 2014 and suggested that questions/concerns could be discussed at the current Public Hearing so that they could potentially be incorporated into the proposed document.

T. Phillips asked that N. Decoteau review with LGC the limits of the amount of the penalty the Selectmen are allowed to impose.

M. Peabody asked what the Zoning Ordinance included as a penalty.

N. Decoteau reported that the Zoning Ordinance allows for a penalty "not more than \$275 per day of the violation".

M. Peabody asked if the Campground Regulations should include a waiver process.

The Board determined that a Waiver section should be drafted from the format in the subdivision regulations.

T. Phillips asked if there was any further input.

**MOTION: "To continue the public hearing to August 21, 2014 beginning at 7:30pm."**

Motion: G. Kimball

Seconded: B. Regan

Discussion: None

Motion Passes: 7 – Yes, 0 – No

F. Freeman noted there has been multiple discussions regarding having more than one dwelling on a single parcel of land and asked what the position the Town takes on that issue and the rationale behind it.

T. Phillips responded that there have been opinions submitted regarding the issue but the Board has never come to an agreement on it.

T. Phillips suggested that it is a Zoning matter which should go before the voters.

T. Phillips suggested that N. Decoteau ask other towns their policy and how it is stated in their zoning ordinance.



**MOTION: "To enter non-public session at 9:11PM in accordance with RSA 91:A:3 II (e) to discuss pending litigation".**

Motion: G. Kimball

Seconded: B. Regan

Roll Call Vote:

T. Phillips - Yes

G. Kimball - Yes

M. Peabody – Yes

F. Freeman - Yes

S. Macintosh - Yes

B. Regan – Yes

R. Gilman - Yes

Motion Passes: 7 – Yes, 0 – No

The Board returned to public session at 9:30PM.

R. Gilman stated his concern that the Board should not allow overnight camping in the flood zone.

T. Phillips stated that the existing approvals can not be revisited and that the Board can be sure to consider the concern when considering campground applications in the future.

**ADJOURNMENT:**

At 9:35pm the following motion was made:

**MOTION: "To adjourn."**

Motion: G. Kimball

Second: T. Phillips

Discussion: None

Motion passes: 7 – YES, 0-NO

Respectfully Submitted,  
Nancy Decoteau