

TOWN OF THORNTON PLANNING BOARD

Approved on: April 19 2015
PB Initials: SGS
Rec'd by Town Clerk on: PB 4/21/15
Town Clerk Initials: PB

Planning Board Meeting Minutes Thursday, March 19, 2015

CALL TO ORDER – SALUTE OF FLAG:

S. Babin called the meeting to order at 6:02pm and led the pledge of allegiance.

ROLL CALL:

The following members were present:

S. Babin, Member

B. Dutto, Member

N. Decoteau, Ex-officio

F. Freeman, Member

G. Kimball, Member

B. Macintosh, Member

D. O'Donnell, Alternate

C. Schofield, Alternate

MOTION: "To appoint the following as a voting member for the meeting: D. O'Donnell in place of T. Phillips' open position."

Motion: G. Kimball

Second: S. Babin

Discussion: None

Motion passes: 6 – YES, 0-NO

NEW BUSINESS:

Election of Officers:

MOTION: "To appoint S. Babin as Chairman."

Motion: F. Freeman

Second: G. Kimball

Discussion: S. Babin indicated he would accept the appointment to the position of chairman

Motion passes: 6 – YES, 0-NO S. Babin abstained

MOTION: "To appoint F. Freeman as Vice Chairman."

Motion: B. Dutto

Second: G. Kimball

Discussion: F. Freeman indicated he would accept the appointment to the position of vice chairman.

Motion passes: 6 – YES, 0-NO F. Freeman abstained

MOTION: "To appoint J. Piehn as an Alternate Member for a 3-year term to expire in March of 2018."

Motion: G. Kimball

Second: F. Freeman

Discussion: B. Regan noted the letter of interest submitted by J. Piehn indicated she would be interested in serving as an alternate for a 3-year term.

Motion passes: 7 – YES, 0-NO

APPROVAL OF MINUTES:

MOTION: "To approve the Minutes of February 19, 2015 as amended."

Motion: G. Kimball

Second: N. Decoteau

Discussion: B. Regan stated that changes submitted have been incorporated in the final document for signature.

Motion passes: 7 – YES, 0-NO

MOTION: "To approve the Non-Public Minutes of February 19, 2015 as presented."

Motion: G. Kimball

Second: F. Freeman

Discussion: None

Motion passes: 7 – YES, 0-NO

B. Regan noted that the Vacancy in the Planning Board should be addressed.

B. Regan stated that according to the Town Clerk, the Secretary of State indicated that the person who received the highest number of write in votes would win the position in the case where no name appeared on the ballot.

B. Regan stated that B. Dutto received the highest number of write-in votes for both the 3-year term open position and the 2-year term open position and that as such; B. Dutto would be afforded the option of selecting which position he would fill.

B. Regan stated B. Dutto has selected to fill the 2-year term.

B. Regan stated that according to the Town Clerk, the Secretary of State indicated the 3-year term would remain open and not be assigned to the person who received the second highest number of votes.

A discussion followed regarding the proper procedure to follow in filling the open 3-year position.

B. Regan suggested that letters of interest be received from people interested in filling the position.

N. Decoteau suggested that B. Regan verify with the Secretary of State the ruling of an open position not going to the person receiving the second highest number of votes when the person with the highest number of votes declines the position.

N. Decoteau suggested B. Regan check with the Planning Board counsel regarding the proper procedure the Planning Board should follow in filling the open 3-year term and added that the question of whether the person appointed to fill the open 3-year term shall be appointed for the 3 years or only until the next election.

S. Benton and J. Benton were present and stated that as people who received the second and third highest number of votes for the 2-year term and the 3-year term position that they are interested in filling the open position.

S. Benton and J. Benton submitted a written letter of interest in serving on the Planning Board.

S. Babin clarified that one 3-year term is open.

B. Regan noted that the Planning Board is authorized to have up to five alternates and currently has five alternates.

MOTION: "To request the Planning Director do the following:

- 1. Verify with the Secretary of State that when the individual receiving the highest number of votes does not choose to fill the position it does not automatically go to the individual receiving the second highest number of votes but remains unfilled.**
- 2. Verify with legal counsel the proper procedure to fill the open 3-year position as to who has the authority to appoint and if the appointment would be for the full 3 years or until the next election."**

Motion: N. Decoteau

Second: F. Freeman

Discussion: None

Motion passes: 7 – YES, 0-NO

OLD BUSINESS:

Alternate Use Policy:

B. Regan stated that the members were given a draft policy regarding how the alternate members would be used to fill open positions at the Planning Board meetings.

B. Regan asked if there were any input.

Board members informed to move ahead with the policy as presented and to include it as part of the revised Rules of Procedure he is working on.

CORRESPONDENCE:

1. B. Regan stated that information regarding the Office of Energy and Planning Spring Planning/Zoning Conference to be held on Saturday, May 2, 2015 in Concord is available.
F. Freeman asked for a copy of the agenda and S. Babin expressed interest in attending.
2. B. Regan stated a NH DOT Alteration of Terrain Permit (AoT-0865) for the Forest Service Russell Pond Road rehabilitation project is available for review.
S. MacIntosh stated she is interested in reviewing the information.

OLD BUSINESS:

Amended Zoning Ordinance:

The Board reviewed the 2015 Thornton Ordinance which included the amendment which passed at the March 10, 2015 election.

S. Babin and F. Freeman signed the 2015 Zoning Ordinance.

S. Benton asked if the zoning amendment prohibits having more than one dwelling on a parcel of land even when the parcel has more than two acres of land.

S. Babin clarified that only one dwelling is allowed on a single parcel of land even when the parcel has 2 or more acres.

S. Babin added that including the "*Recommended by the Planning Board*" statement was included on the ballot because the Planning Board voted to do so with a vote of 4 Yes and 3 No.

PUBLIC HEARING:

S. Babin stated the Public Hearing is continued from February 19, 2015.

S. Babin opened the Public Hearing at 6:30pm and read the following notice into the record:

Public Hearing to consider an application for a 4-Lot Subdivision submitted by French Land Services, Inc. as agent for property owners 125 Sullivan Farm, LLC; Peter McGonagle, et al; and Maureen Sullivan-Lajczok as to the property located at 125 Sullivan Drive and identified as Tax Map 8 Lot 14-1.

K. French presented the plan.

K. French delivered Waiver Requests from Section IV G. Irregular Shaped Lots and from Section IV I-9: Road Plans & Profiles and noted that a written explanation for granting each waiver is attached to the request.

F. Freeman asked, relative to the irregular boundary line along lot 2, whether the actual line follows the center of the brook.

K. French responded that it does and if the course of the brook changes gradually over time the boundary line follows that course. However, if an "event" e.g. a storm or other act of nature caused an abrupt change the boundary line would follow the previous course of the brook in the affected area.

K. French pointed out Note 6 on the plan and indicated upon approval of this plan it and any subsequent plans will fall under the Mill Brook Association covenants and by-laws.

C. Kilmer asserted his purchase & sale agreement is conditioned on acceptance into the Mill Brook Association and if that does not happen the deal is off.

C. Kilmer further stated his intent is to bring the property under the Mill Brook Association so the development will be done under the covenants and Town regulations so as to keep the property "as it looks today".

K. French pointed out the limitations off further subdivision to 21 lots, as follows:

Lot 1-Two Lots

Lot 2-Seven Lots

Lot 3-No Further subdivision

Lot 4-Eleven

C. Kilmer noted his understanding that M. Sullivan-Lajczok intends to build a house on lot 2, at some future date.

K. French also noted his inclusion of reference to the newly adopted ordinance limiting dwellings to one per lot. He pointed to the fact that a "log cabin" exists now on lot 2 but does not rise to the level of a dwelling as defined in the zoning code.

S. Babin stated in his estimation it is not a dwelling fit for human habitation.

B. Macintosh asked about access to lot 2.

K. French pointed out a 25' right of way specified on plan.

K. French noted a Wetlands Impact Permit had been applied for and he is awaiting its return.
N. Decoteau asked about the status of the small parcel said to be owned by Land/Vest.
K. French said it was being conveyed to C. Kilmer.
C. Kilmer stated the deed is executed and being held in escrow at Atty. T. Cowie's office in Plymouth.
N. Decoteau asked if that land would be merged with the other property.
C. Kilmer noted the land would first be deeded to him. His intent thereafter would be to include the land as part of other common land of the Mill Brook Association.
K. French pointed out that the Wetlands Impact Permit application was filed with permission of Land/Vest.
S. Babin read through the Final Plat Subdivision Checklist item by item noting items of compliance as well as need items yet to be submitted.

MOTION: "To accept the plan as complete with the following conditions:

- 1. Submission of one (1) Mylar copy (for recording), and**
- 2. Submission of three (3) amended, blue or black line paper copies one showing 5' topographical gradations, and**
- 3. Delivery of a copy Wetlands/Culvert permit from State of NH, and**
- 4. Copies of the "Land/Vest" deed to Kilmer with easements and all deeds as identified in Note 6 on the plan that affect the validity of the plan. "**

Motion: G. Kimball

Seconded: F. Freeman

Discussion: None

Motion Passes: 7-Yes, 0-No

N. Decoteau expressed the concerns of the BOS relative to this plan and any subsequent plan as being "scattered" and "premature. Further stating the BOS feels very strongly that some consideration be given at this time as to the road conditions in this area.
S. Babin asked whether the BOS' concern was as to the existing Sullivan Dr. and Yarding Lane or to the extension of these roads as proposed?
N. Decoteau stated the BOS concern was as to the condition and potential added traffic.
B. Dutto said the time to deal with this issue would be at the time any subsequent development was proposed.
F. Freeman concurred with B. Dutto.
G. Kimball agreed that the BOS expressed legitimate concerns relative to future development.
B. Dutto suggested a note for the record might suffice.
S. Babin suggested a letter to the applicant may be enough.
N. Decoteau stated a letter to the applicant would not suffice as any future development may be presented in increments and as such may not raise the impact concerns of full development.
C. Kilmer advised it was his intent if the sale goes through, to attempt to sell the farm house, if possible to someone willing to do an historic restoration.
C. Kilmer further stated, a few years later he would come back with a plan for roads and subdivision and then put the land in trust for his children and therefore development was not imminent.
C. Kilmer also praised the Town's Road Agent for the current conditions of Mill Brook Road as being the best ever, in his estimation.
C. Kilmer noted, as past President of the Mill Brook Association he is aware the homeowners prefer gravel roads to paved roads.
C. Kilmer also reiterated he was "very committed" to responsible development.
T. Sullivan "we are blessed" to have Carl Kilmer as the buyer as he intends to maintain the property's character and that it is a "testament" to the Sullivan family having been owners of the property for so long.
N. Decoteau stated the BOS sees potential growth and wants to see something that starts the process of addressing these road conditions now.

General discussion ensued as to what might be an appropriate method of addressing the BOS concerns.

F. Freeman expressed that the BOS' concerns are valid, understood and appreciated.

C. Kilmer noted he had been before the BOS many times and had expressed concerns over logging trucks travelling over Mill Brook's roads.

F. Freeman said we can't restrict a 4 lot subdivision based on what may happen in the future.

F. Freeman further stated "we have given due notice to the future owner".

N. Decoteau asked whether the PB could move forward with this application without a deed or something in writing from the owner of the "sliver of land" Land/Vest or C. Kilmer?

S. Babin stated it could be a condition of any action.

S. Babin closed the Public Hearing at 7:39pm

MOTION: "To approve the plan with the following conditions:

- 5. Submission of one (1) Mylar copy (for recording), and**
- 6. Submission of three (3) amended, blue or black line paper copies one showing 5' topographical gradations, and**
- 7. Delivery of a copy Wetlands/Culvert permit from State of NH, and**
- 8. Copies of the "Land/Vest" deed to Kilmer with easements and all deeds as identified in Note 6 on the plan that affect the validity of the plan. "**

Motion: G. Kimball

Seconded: B. Dutto

Discussion: None

Motion Passes: 4-Yes, 2-No, 1-Abstention

OLD BUSINESS:

Whitehouse Reclamation Bond Update:

B. Cola and J. Cola were present for the discussion on the Whitehouse excavation pit bond issue.

B. Regan reviewed the history and status of the issue.

B. Regan indicated that the Rowley Agency has indicated a rider could be added to the bond taken by the current property owners, J. & B. Cola.

B. Regan requested direction from the Board to either call the existing bond or allow a rider to be added to the new bond provided it is delivered to the town.

F. Freeman asked J. & B. Cola whether they understood the reclamation requirements set by the PB when they purchased the property.

J. Cola provided photos to support the claim the property has been cleaned up to include the removal of all the tires, old buildings and other debris.

J. Cola stated she hired D. Johnston to review the site and identify the areas which still need to be reclaimed.

J. Cola submitted photos which show areas staked off that still need to be addressed.

J. Cola suggested adding language to a rider on her bond that states the two staked off areas as indicated in the photos are the only remaining items from the Planning Board's Notice of Action of August 21, 2014.

S. Babin noted the problem of timing on the existing bond versus a replacement bond to address the PB's concerns, noting that action needed to be taken by April if the bond is to be called.

B. Regan stated that the weather conditions would prohibit inspecting the pit to verify which items in the Notice of Action have been addressed.

B. Regan suggested including the language in the Notice of Action in the rider due to the fact that current weather conditions prohibit inspection of the pit to verify which items in the Notice of Action have been addressed.

J. Cola stated that the Notice of Action was vague in describing what remains to be done.

J. Cola stated she requested D. Johnston of Dirt Designs to stake off the specific areas that need attention to clearly identify the areas that need to be addressed.

J. Cola added areas staked off with Dirt Designs are identified in the photos presented.

After some discussion the Board authorized B. Regan to take the following action:

- contact D. Johnston of Dirt Designs to review the items in the Notice of Action and verify whether or not the areas staked out are the only areas that still need to be addressed.
- contact J. Cola to inform her of the language that needs to be included in the rider (as determined after meeting with D. Johnston).
- to work with the parties involved to get an appropriate restoration bond sufficient to assure completion of restoration work at the gravel pit on Tax map 16 Lot 4-29 from J. Cola in place before April 9, 2015.

MOTION: "To authorize the Planning Director to take the following action:

To notify the Board of Selectmen to release restoration bond #110675 upon delivery of a replacement bond deemed sufficient to assure completion of restoration work at the gravel pit on Tax map 16 Lot 4-29"

Motion: F. Freeman

Second: G. Kimball

Discussion: None

Motion passes: 7- YES, 0-NO

NON-PUBLIC: Discussion pursuant to NH RSA 91-A, 3, II, (e)

At 8:15pm the following motion was made:

MOTION: "To enter non-public session in accordance with RSA 91-A:3 II (e) Pending Litigation".

Roll Call Vote:

S. Babin - Yes

F. Freeman - Yes

B. Macintosh- Yes

D. O'Donnell-Yes

G. Kimball - Yes

N. Decoteau - Yes

B. Dutto - Yes

Motion: B. Dutto

Second: F. Freeman

Discussion: None

Motion passes: 7- YES, 0-NO

The Board returned from Non Public Session at 8:29pm.

ADJOURNMENT:

At 8:30pm the following motion was made:

MOTION: "To adjourn."

Motion: B. Dutto

Second: G. Kimball

Discussion: None

Motion passes: 7 - YES, 0-NO

Respectfully Submitted,

Brian Regan, Planning Director

TOWN OF THORNTON PLANNING BOARD

AGENDA Thursday, March 19, 2015 6:00PM

A. CALL TO ORDER – SALUTE OF FLAG:

B. ROLL CALL:

S. Babin, Member
F. Freeman, Member

B. Dutto, Member
G. Kimball, Member

N. Decoteau, Ex-officio
B. Macintosh, Member

R. Gilman, Alternate
D. O'Donnell, Alternate

F. Gunter, Alternate

C. Schofield, Alternate

C. APPROVAL OF MINUTES:

- February 19, 2015 Regular Meeting
- February 19, 2015 Non-Public Session

D. NEW BUSINESS:

1. Election of Officers:
 - Chair
 - Vice Chair
2. Alternate: Re-appointment (Julie Piehn)
3. Vacancy.

E. PUBLIC HEARINGS: (6:30)

1. 4 Lot Subdivision "The Sullivan Farm" 125 Sullivan Drive **Map 8-14-1**
(Continued from 2/19/15 meeting.)

F. OLD BUSINESS:

1. Whitehouse reclamation bond. Update.
2. Amended Zoning Ordinance.
3. Alternate Use Policy. Input?

G. NON-PUBLIC:

1. Discussions pursuant to NH RSA 91-A, 3, II, (e) – Re: Litigation

H. CORRESPONDENCE:

1. Office of Energy & Planning Notice of Spring Planning/Zoning Conference
2. Department of Environmental Services-Alteration of Terrain Permit (AoT-0865)

I. ADJOURNMENT