

TOWN OF THORNTON PLANNING BOARD

8/20/15
Approved on: [Signature]
PB Initials: [Signature]
Rec'd by Town Clerk on: 8/15/15
Town Clerk Initials: [Signature]

Planning Board Meeting Minutes Thursday, July 16, 2015

CALL TO ORDER – SALUTE OF FLAG:

B. Dutto, acting as Chairman in the absence of S. Babin and F. Freeman, called the meeting to order at 6:07pm and led the pledge of allegiance.

ROLL CALL:

The following members were present:

B. Dutto, Member N. Decoteau, Ex-officio G. Kimball, Member B. Macintosh, Member

D. O'Donnell, Alternate

Staff present:

B. Regan, Planning Director

MOTION: "To appoint D. O'Donnell to the vacant position as voting member for the meeting."

Motion: G. Kimball

Second: N. Decoteau

Discussion: None

Motion passes: 4 -YES, 0 -NO

APPROVAL OF MINUTES:

MOTION: "To approve the Minutes of June 18, 2015 as amended."

Motion: G. Kimball

Second: B. MacIntosh

Discussion: B. Regan indicated that the minor corrections submitted by board members have been made to the document.

Motion passes: 5-YES, 0 -NO

OLD BUSINESS:

"Whitehouse Pit": Cola reclamation. Status report.

B. Regan informed the board that the Board of Selectmen agreed to release the bond for the "Whitehouse Pit" and that the property owners and surety company were so notified.

CORRESPONDENCE:

1. Copy of Accessory Apartment Application Form for informational purposes.

B. Regan provided a copy of the new Accessory Apartment Application Form for the board members to review and provide comment/input at the next meeting.

PUBLIC HEARING / 6:15 p.m.

Application for Subdivision Approval-Banjo Drive, Thornton, NH (Map 15 Lot 1-38) submitted by property owners Edward J. Hubbard and Joseph W. & Laura A. Laufenberg.

Public Hearing was open at 6:15 p.m. Applicants presented their plan to the board and stated the subdivision amounts to a boundary line adjustment since, as abutters they will each retain approximately one half of the existing parcel and combine it with their respective properties.

Hearing no opposition the Public Hearing was closed at 6:21 p.m.

MOTION: "To accept the application submitted by property owners Edward J. Hubbard and Joseph W. & Laura A. Laufenberg for subdivision approval for property located on Banjo Drive, Thornton, NH identified as Map 15 Lot 1-38 as complete."

Motion: N. Decoteau

Second: G. Kimball

Discussion: None

Motion passes: 5 -YES, 0 -NO

MOTION: "To approve the application submitted by property owners Edward J. Hubbard and Joseph W. & Laura A. Laufenberg for subdivision approval for property located on Banjo Drive, Thornton, NH identified as Map 15 Lot 1-38 with the following condition:

1. A check to be submitted, payable to the Town of Thornton, for the Grafton County Registry of Deeds recording fees."

Motion: N. Decoteau

Second: G. Kimball

Discussion: None

Motion passes: 5 -YES, 0 -NO

NEW BUSINESS:

Informational: Joseph and Deb Peznola of Hudson, MA.
Re: 2872 U.S. Rte. 3. Map 10 Lot 8-6
Question of continuance or discontinuance of non-conforming use.

B. Regan briefed the board as to communications and correspondence regarding the property in question and the written request to be placed on the agenda for informational purposes submitted by J. Peznola.

Also present was Darlene King Jennings realtor for property owners.

J. Peznola advised the board he and his wife have the 4 acre parcel under agreement and intend to move here upon retirement in approximately 5 years. He presented an overhead photo of the parcel identifying existing structures. He further stated they would like to live in the main house and have the cottage as a guest cabin. Additionally, he stated although the power and water had been disconnected "the owners, Mr. & Mrs. Stumcke, always envisioned having the continued use and it hasn't, in their minds, been discontinued".

J. Peznola made reference to and read section E. 1. Of the Zoning Ordinance;

"Non-conforming use may be continued indefinitely so long as it was legally in existence at the date of adoption of this ordinance. However one non-conforming use shall not be changed to another non-conforming use. If the non-conforming use has been discontinued for a period longer than one year it may not be re-established and any further use must comply with the requirements of this ordinance."

D. O'Donnell asked if this may fall under the Accessory Apartment provision of the ordinance.

J. Peznola stated he had read that and believed it had to be part of the same structure.

B. MacIntosh expressed her opinion, " It's like buying a cabin colony. I don't object to it."

N. Decoteau asked if there was anything in Town records as to the cabin use on the property?

B. Regan said he had no knowledge of any documentation of approval or removal of the cabins, but the question of re-establishing a cabin business on the property had been before the board and the discussion revolved around the commercial zone and feasibility of such a plan as an inn, hotel or lodge, etc.

B. Regan further stated, in his estimation, all indications are that the use of the cabin as a dwelling was discontinued more than 15 years ago.

D. Jennings King asked "Can I ask why you feel that way?"

B. Regan responded that he had met and discussed the matter with the property owners.

J. Peznola described discontinuance vs. abandonment in land use matters and stated there "needs to be an intent to discontinue". J. Peznola continued by stating his opinion that "failing the intent to discontinue we believe it is not discontinued and that discontinuance of the nonconforming use began March 11 of this year. If we merely use it between now and March of 2016 it is continuing and we would be within the year."

B. Regan stated his understanding is that the ordinance requires an intent to continue a use and not an intent to discontinue. Further, he stated the property in question had not been used as a dwelling in more than 15 years, as the result, the use as a dwelling was discontinued long before March 11, 2015.

B. Dutto proposed, as a possible solution, that it be divided into two lots, after purchase and have one dwelling on each lot.

B. Regan responded that such options had been presented to J. Peznola. One was to subdivide and the other to seek a variance from the ZBA, in either case, after purchase.

J. Peznola answered, it is possible to subdivide there are 295 feet of frontage and 4 acres but there is expense to having plans drawn up. That is not our intent, it is to use it as a guest quarters.

D. Jennings King stated the Stumckes had a very negative tenant issue 15 years ago and that's why they stopped renting it.

B. Dutto said he did not want to set a precedent of allowing 2 dwellings on one lot.

J. Peznola responded it is just an interpretation of the ordinance. No precedent would be set.

B. Regan added, the Stumckes called and asked to meet with him. He said he did because they are property owners in the Town of Thornton. He said both Mr. & Mrs. Stumcke told him they had not rented the cabin or otherwise used the cabin as a dwelling in more than 15 years further they said they might have used it for storage and thought about using it as a workshop. Again, all indications are that the use had been abandoned.

J. Peznola again stated his opinion that it didn't become non-conforming until March 11 of this year.

B. Dutto asked, should we seek legal counsel?

B. Regan replied, We could.

B. Regan said he was compelled to point something out to the board. He said the letter submitted by J. Peznola contains a paragraph which states the following:

"The seller firmly asserts that the use of the second dwelling has not been discontinued or abandoned. While Mr. and Mrs. Stumcke have not rented the cottage for a number of years, they have maintained the building and have always intended to continue its use and existence on the property."

B. Regan further stated," Mrs. Stumcke and Mr. Stumcke have told me that that statement is not true. I just want you to be aware of that as you consider this matter."

B. MacIntosh asked, they did not plan on using it?

B. Regan stated, They told me that statement, that has been submitted to you, is not true.

B. MacIntosh asked , Why did they maintain it then?

B. Regan responded, That statement is not true.

B. MacIntosh said I'm just trying to figure it out.

B. Regan stated, They didn't say they maintained it.

B. Dutto said if we are going to do something here we'd want to have a variance, which is iffy, or to have 2 lots with a dwelling on each lot. Otherwise, we open a whole can of worms which we are trying to keep closed. So either you seek a variance or subdivide the land.

J. Peznola said, We wouldn't seek a variance, we have no hardship.

B. Dutto suggested, since there is plenty of land there to subdivide leaving just a legal boundary line between the buildings. If you were to go in that direction you'd have 2 lots with 2 separate dwellings.

J. Peznola then thanked the board for its time.

PUBLIC HEARING / 6:45 p.m.

Application for Subdivision Approval-6 Judges Road at Upper Mad River Road, Thornton, NH (Map 13 Lot 6-22) submitted by John March d/b/a Mountain Mapping as agent for property owner Harry George.

Public Hearing open at 6:50 p.m.

J. March presented the application.

J. March stated an application for State Subdivision approval has been submitted and indicated that he should have the approval by the meeting next month.

Public Hearing closed at 6:55 p.m.

MOTION: "To accept the application submitted for subdivision approval by John March d/b/a Mountain Mapping as agent for property owner Harry George for property at 6 Judges Road at Upper Mad River Road, Thornton, NH identified as Map 13 Lot 6-22, as complete."

Motion: N. Decoteau

Second: D. O'Donnell

Discussion: None

Motion passes: 5 -YES, 0 -NO

MOTION: "To continue the public hearing for the application submitted for subdivision approval by John March d/b/a Mountain Mapping as agent for property owner Harry George for property at 6 Judges Road at Upper Mad River Road, Thornton, NH identified as Map 13 Lot 6-22 to 6:30pm on Thursday, August 20, 2015."

Motion: G. Kimball

Second: D. O'Donnell

Discussion: None

Motion passes: 5 -YES, 0 -NO

NON-PUBLIC:

No Non-Public Session was necessary.

BOARD DISCUSSION:

The Board discussed issues relative to the abandonment of a non-conforming use.

The Board discussed the issue of all alternates sitting at the table during meetings – although they may not be a voting member for that meeting.

ADJOURNMENT:

The following motion was made at 7:06pm:

MOTION: "To adjourn."

Motion: G. Kimball

Second: D. O'Donnell

Discussion: None

Motion passes: 5 -YES, 0 -NO

Respectfully Submitted,

Brian Regan, Planning Director

TOWN OF THORNTON PLANNING BOARD

AGENDA

Thursday, July 16, 2015

6:00 PM

A. CALL TO ORDER – SALUTE OF FLAG:

B. ROLL CALL:

S. Babin, Chair
F. Freeman, Vice Chair

B. Dutto, Member
G. Kimball, Member

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

R. Gilman, Alternate
J. Piehn, Alternate

F. Gunter, Alternate
C. Schofield, Alternate

D. O'Donnell, Alternate

C. APPROVAL OF MINUTES:

- June 18, 2015 Regular Meeting

D. NEW BUSINESS:

1. Application for Subdivision Approval: **Banjo Drive**, Thornton, NH (**Map 15 Lot 1-38**). See E. 1.
2. Application for Subdivision Approval: **6 Judges Road at Upper Mad River Road**, Thornton, NH (**Map 13 Lot 6-22**). See E.2.
3. Informational: Joseph and Deb Peznola of Hudson, Massachusetts. Re: **2872 U.S. Rte. 3**. Question of continuance or discontinuance of non-conforming use.

E. PUBLIC HEARINGS:

1. **Public Hearing: July 16, 2015 at 6:15 p.m.** Application for Subdivision Approval-**Banjo Drive**, Thornton, NH (**Map 15 Lot 1-38**) Public Hearing to consider an application for a Subdivision Approval submitted by property owners Edward J. Hubbard and Joseph & Laura Laufenberg.
2. **Public Hearing: July 16, 2015 at 6:45 p.m.** Application for Subdivision Approval-**6 Judges Road at Upper Mad River Road**, Thornton, NH (**Map 13 Lot 6-22**): Public Hearing to consider an application for a Subdivision Approval submitted by John March d/b/a Mountain Mapping as agent for property owner Harry George.

F. OLD BUSINESS:

1. "Whitehouse Pit": Cola reclamation. Status report.

G. NON-PUBLIC:

None

H. CORRESPONDENCE:

1. Copy of Accessory Apartment Application Form for informational purposes.

I. ADJOURNMENT:

Planning Board

July 16, 2015

SIGN IN SHEET (Please Print)

1	<u>Darlene King Jennings</u>	25	<u>DARLENE KING JENNINGS</u>
2	<u>[Signature]</u>	26	<u>Joe Laufenberg</u>
3	<u>[Signature]</u>	27	<u>Edward Hubbard</u>
4	<u>Joe Pernon</u>	28	<u>Joe Peznola</u>
5	<u>Deborah Peznola</u>	29	<u>Deborah Peznola</u>
6	<u>John March</u>	30	<u>John March</u>
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