

TOWN OF THORNTON PLANNING BOARD

Approved on: 3/17/2016
PB Initials: SB
Rec'd by Town Clerk on: 3/24/16
Town Clerk Initials: BR

Planning Board Meeting Minutes Thursday, February 18, 2016

CALL TO ORDER – SALUTE OF FLAG:

Chairman S. Babin called the meeting to order at 6:00pm and led the Pledge of Allegiance.

MOMENT OF SILENCE:

G. Kimball requested that there be a moment of silence in honor of Thornton's sitting Selectman, Jim Demeritt, who passed away on February 16, 2016.

G. Kimball stated Jim served on the Zoning Board of Adjustment, Capital Improvement Projects Committee, Fire Commissioners as well as other committees for the town.

The Board observed a moment of silence in honor of Selectman Jim Demeritt.

ROLL CALL:

Members present:

S. Babin, Chairman	B. Dutto, Member	N. Decoteau, Ex-officio
G. Kimball, Member	B. Macintosh, Member	R. Gilman, Alternate
D. O'Donnell, Alternate	J. Piehn, Alternate	C. Schofield, Alternate

Staff Present: B. Regan, Planning Director

MOTION: "To appoint J. Piehn to the position held by F. Freeman, and to appoint C. Schofield to the vacant position as voting members for the meeting."

Motion: G. Kimball

Second: B. Dutto

Discussion: None

Motion passes: 5-YES, 0-NO

APPROVAL OF MINUTES:

MOTION: "To approve the Minutes of January 21, 2016 as amended."

Motion: G. Kimball

Second: B. Dutto

Discussion: B. Regan noted he received minor corrections from individual board members which were incorporated into the minutes as presented.

Motion passes: 4-YES, 0-NO Abstained: S. Babin, J. Piehn and C. Schofield

NEW BUSINESS:

1. Voluntary Merger:

J & B Nominee Trust: 11 Waterthorn Road Map 6 Lot 9-29 and Map 6 Lot 9-38

B. Regan presented documents submitted to merge Map 6 Lot 9-29 and Map 6 Lot 9-38.

B. Regan noted that Map 6 Lot 9-29 and Map 6 Lot 9-38 are abutting parcels which are owned by John and Barbara Finley as Trustees of the J & B Nominee Trust.

B. Regan noted there are no buildings on either parcel and the new Tax Map/Lot number identifying the merged parcel will be Map 6 Lot 9-29.

MOTION: "To approve the voluntary lot merger for Map 6 Lot 9-29 and Map 6 Lot 9-38."

Motion: B. Dutto

Second: J. Piehn

Discussion: None

Motion passes: 7-YES, 0-NO

2. BRC William Tell Holdings, LLC: Informational-Tell Restaurant (Attorney Karyn Forbes)

K. Forbes reviewed the 32 page packet of information with a cover letter dated February 1, 2016 she had submitted prior to the meeting.

K. Forbes stated B. Cook, the principal of BRC, is in attendance along with prospective new owners, B. Warren and P. Overstreet.

K. Forbes stated her purpose was to follow-up on Mr. Overstreet's appearance before the Planning Board and to provide historical information demonstrating that BRC William Tell has unequivocally continued to use the property identified as Tax Map 17 Lot 7-61 with an address of 891 NH RT 49 as a restaurant and has never had any intent to abandon that use or taken any actions whatsoever to abandon the use.

K. Forbes made note of the history of ownership and use of the property and referred to the following documents in the packet:

- Exhibit A: Food Service License effective until November 16, 2010
- Exhibit B: Email dated Nov. 8, 2010 regarding the real estate listing for subject property as a restaurant
- Exhibit C: Bill of Sale from BRC to Tells-Waterville, LLC dated Oct 19, 2011
- Exhibit D: Exclusive Listing Agreement dated June 29, 2012 for "commercial restaurant".
- Exhibit E: Real Estate listings showing listing as restaurant Aug 23, 2012
- Exhibit F: Commercial/Industrial Real Estate listing Jan 26, 2016
- Exhibit H: Asset Purchase Agreement dated Jan 12, 2016 with restaurant contents/supplies itemized.

Bradley Cook, identified himself as a Member of BRC Tell Holdings, and LLC spoke briefly regarding his history of ownership of the restaurant and stated it was always his intent to continue using the restaurant and to market it as such.

B. Cook further emphasized his position stating "the bottom line is, I have not abandoned the use."

J. Piehn stated that the property is in the residential zone and asked for clarification that the non-conforming use of a restaurant can continue on the parcel it has existed on.

B. Regan stated that the parcel the restaurant is located on is the parcel being discussed and that two other parcels (Map 17 Lot 7-4101 and Map 17 Lot 7-65) were marketed with the restaurant property.

K. Forbes stated that whatever has been used as the restaurant will be allowed to continue regardless which parcel it is on such as the septic system.

S. Babin asked the members of the Board if they consider the use of the property as a restaurant to be abandoned or discontinued.

B. Dutto recused himself and sited the conflict of interest he had as he hopes to become a vendor for the new owners.

MOTION: "To accept the information presented and agree that the property identified Tax Map 17 Lot 7-61 with an address of 891 NH RT 49 has been continually used or marketed as a restaurant."

Motion: S. Babin

Second: G. Kimball

Discussion: None

Motion passes: 6-YES, 0-NO Abstained: B. Dutto

3. Steve Macera - Preliminary Consultation and Review, Phase II, Remington Road

G. Jencks stated he was present to represent S. Macera in his absence.

B. Regan stated documentation was submitted indicating D. King-Jennings and A. Briggs are authorized to present on behalf of S. Macera.

D. King stated that A. Briggs could not attend as G. Jencks is a family member who will be presenting with her.

D. King distributed the following documents to Board members:

- Letter from S. Macera Re: Planning Board meeting Feb 18, 2016
- NH Division of Fire Safety, Office of the State Fire Marshal letter dated September 23, 2013 RE: Residential Sprinklers in Danville Town Ordinance
- NH RSA 674:36 IV Regulation of Subdivision of Land
- NH RSA 153:5 State Fire Code
- NHMA article on Sprinkler Requirements
- Copy of Union Leader Oct 12, 2011 article RE: sprinkler requirements.

D. King recited NH RSA 674:36 IV and made the argument that the subdivision in question was approved after the date of the law change and that the Planning Board mandated that sprinkler systems be installed in the homes to be built in the subdivision.

D. King asked the board to remove the provision stating sprinkler systems will be installed in houses built on the affected lot on the approved sub-division plan.

B. Regan noted that the record reflects the developer/applicant voluntarily committed to the sprinkler system provision as an alternative to installing a dry hydrant at the adjacent Pemigewasset River.

B. Dutto asked what would be used if there were no sprinkler and no dry hydrant how would fires be fought.

D. King Jennings stated the owner was not given an alternative.

S. Babin asked what was the motivation for removing the provision?

D. King-Jennings stated "the cost to put something else in might be cheaper."

D. King-Jennings quoted costs of systems at \$6-10 thousand each for 1500 to 2000 sq. ft. homes.

S. Babin referenced NFPA 13D process and noted available companies that provide the systems.

S. Babin noted a per sq. ft. cost estimate of \$1-\$3 dollars.

S. Babin stated, "what I'm seeing is a plan that was presented and says somebody is going to do something and now they don't want to do it".

S. Babin noted the plan was approved by this board including the fire suppression provision and now we're being asked to undo what we did based on no apparent condition, just a theoretical notion that it may be more expensive."

B. Regan stated his opinion that the approved plan complied with the law and there was no point in arguing the semantics as to voluntary, agreed to or mandated at this time.

B. Regan stated that the applicant/developer will need to submit a new application and amended sub-division plan for the board to consider.

D. King Jennings asked B. Regan if he was "a lawyer?"

B. Regan answered yes.

D. King-Jennings stated "New Hampshire Bar?"

B. Regan said no.

D. King-Jennings advised the board she was offering the present request "as an alternative to litigation".

R. Larochelle stated he owns two parcels on Remington Road and did not understand the principle behind requiring the installation of sprinkler systems.

R. Larochelle proceed to offer his experiences and opinions as to construction and fire protection in homes noting that no inspector ever came to his home.

S. Babin, again referenced the NFPA and offered his experiences and opinions as to residential fire suppression systems.

G. Jencks asked to speak and was recognized by the Chair.

G. Jencks stated Mr. Macera sent me here.

G. Jencks "Steve felt like he had a gun put to his head".

G. Jencks "it's not about the money", "it's the principle of it now".

B. Regan reiterated it would require a new application and plan be submitted.

PUBLIC HEARINGS:

S. Babin opened the Public Hearing at 7:11 pm and read the notice into the record:

Site Plan Review Application: Continued by agreement from December 17, 2015 at 6:30 p.m. and from November 19, 2015 at 6:30 p.m. and from October 15, 2015 6:30 p.m. and from September 17, 2015 at 7:15 p.m. Site Plan Review Application submitted by Route Three Thornton, LLC for the development of a 267 site nonresidential campground on property on US Rte. 3, formerly known as the "Ham Farm" and identified as Tax Map 10 Lot 8-8.

B. Regan read the following letter from Keach-Nordstrom Associates, Inc. dated February 4, 2016 into the record:

Town of Thornton / Planning Board

RE: Site Plan Application for the Outlook Campground

Applicant: Route Three Thornton, LLC

Submittal date: August 18, 2015

Continuance: 10/15/2015, 11/19/15, 12/17/15, 2/19/2016

Dear members of the Board:

I am writing this request on behalf of our client, Mr. Dick Anagnost, member of Route Three Thornton, LLC., applicant for the Outlook Campground proposal. We formally request the withdrawal of, without prejudice, the application for The Outlook Campground, as referenced above.

Should Staff or any board Members have questions or comments please contact the writer.

Respectively submitted by,

Jason Lopez / Keach-Nordstrom Associates, Inc.

On behalf of: Dick Anagnost / Route Three Thornton, LLC /1662 Elm Street/ Manchester, NH 03101

S. Babin closed the Public Hearing at 7:20PM

MOTION: "To accept the request for the withdrawal of, without prejudice, the application for The Outlook Campground."

Motion: G. Kimball

Second: J. Piehn

Discussion: None

Motion passes: 6-YES, 0-NO Abstained: C. Schofield

NEW BUSINESS:

3. U S East BMP, LLC: Informational-Tell Restaurant (H. Paul Overstreet & Bryan Warren)

P. Overstreet apologized for arriving after 6:00pm.

S. Babin stated that the Planning Board made the determination earlier in the meeting that the property identified as Tax Map 17 Lot 7-61 with an address of 891 NH RT 49 has been continually marketed as a restaurant.

P. Overstreet asked if there were other restrictions/regulations that have encumbrances on the property.

S. Babin stated that is outside of the purview of the Board.

B. Regan stated in summary that what exists may operate, but that any expansion or attempt to expand upon that would be a whole different situation.

OLD BUSINESS:

1. Waterville Birches Phase II, Informational, project update and status. (Tom Avallone)

T. Avallone submitted the NH Alteration of Terrain permit and the Condo Association documents approved by the NH office of the Attorney General.

T. Avallone reported on the status of the Waterville Birches Phase II project.

T. Avallone noted since a time gap occurred between phase 1 and phase 2 for some unknown reason the plan Mylar was not recorded.

B. Regan noted the plan for phase 2 was conditionally approved and since the conditions had not been met the plan was not recorded, in fact, the Mylar was not submitted.

T. Avallone stated he would provide the Mylar for signature before next month's meeting.

T. Avallone also stated he would be working with his banker to acquire a new letter of credit for the next phase.

T. Avallone further described an issue he, as developer, is dealing with the Waterville Estates Village District (WEVD) involving a land swap affecting the road location within the development.

B. Dutto asked since we have the conditions met now and if we get the Mylar could that be recorded.

The board agreed to that approach.

NON-PUBLIC: None

CORRESPONDENCE:

B. Regan reviewed the following correspondence with the Board:

1. NH Department of Transportation: Notice of proposed paving of I-93 between Exits 29 & 30.

ADJOURNMENT:

The following motion was made at 7:55PM.

MOTION: "To adjourn."

Motion: G. Kimball

Second: B. Dutto

Discussion: None

Motion passes: 7-YES, 0-NO

Respectfully Submitted,

Brian Regan, Planning Director

TOWN OF THORNTON PLANNING BOARD

AGENDA

Thursday, February 18, 2016

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: January 21, 2015 Regular Meeting

D. NEW BUSINESS:

1. J & B Nominee Trust: **Application for Voluntary Merger** 11 Waterthorn Road (Map 6 Lot 9-29 and Map 6 Lot 9-38)
2. BRC William Tell Holdings, LLC: **Informational**-Tell Restaurant (Attorney Karyn Forbes)
3. U S East BMP, LLC: **Informational**-Tell Restaurant (H. Paul Overstreet & Bryan Warren)
4. Steve Macera - **Preliminary Consultation and Review**, Phase II, Remington Road.

E. PUBLIC HEARINGS:

1. **Public Hearing: - 7:00 p.m.** Continued by agreement from December 17, 2015 at 6:30 p.m. and from November 19, 2015 at 6:30 p.m. and from October 15, 2015 6:30 p.m. and from September 17, 2015 at 7:15 p.m. Site Plan Review Application submitted by Route Three Thornton, LLC for the development of a 267 site nonresidential campground on property on US Rte. 3, formerly known as the "Ham Farm" and identified as Tax Map 10 Lot 8-8.

F. OLD BUSINESS:

1. Waterville Birches Phase II, **Informational**, project update and status. (Tom Avallone)

G. NON-PUBLIC: None

H. CORRESPONDENCE:

1. NH Department of Transportation: Notice of proposed paving of I-93 between Exits 29 & 30.

I. ADJOURNMENT:

Planning Board

February 18, 2016

SIGN IN SHEET (Please Print)

1	Bradley R. Cook	25
2	Bryan Warren	26
3	Bryan Cook	27
4	Larry Forbes	28
5	Darlene Sue Jensen	29
6	Tom AVALLONE WATERVILLE BIRCHES LN	30
7	Robert W. Splett	31
8	Paul Ann A	32
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11		35
12		36
13		37
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