

TOWN OF THORNTON PLANNING BOARD

Approved on: Jan 17 2019
PB Initials: SB
Rec'd by Town Clerk on: 1/29/19
Town Clerk Initials: djm

Planning Board Meeting Minutes Thursday December 20, 2018

CALL TO ORDER – SALUTE TO THE FLAG:

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

ROLL CALL:

Members present: S. Babin, B. Benton, F. Freeman, L. Hoyt, D. O'Donnell

Alternates present: G. Kimball,

Members/Alternates absent: B. Dutto, J. Piehn, F. Gunter, C. Schofield

Chairman Babin acknowledged that a quorum was present. He then appointed Alternate G. Kimball to sit, as a voting member, in place of absent Member B. Dutto.

Others present: Brian Regan, Shirley Benton, Thomas Duffield, Alfred Duguay, Susan Rossley, Barbara Patterson, Kali Cushing

APPROVAL OF MINUTES: Upon distribution and review of the meeting minutes of November 15, 2018 the members took the following action:

MOTION: "To accept and approve the Minutes of the Thursday November 15, 2018 meeting as amended."

Motion: D. O'Donnell

Second: F. Freeman

Discussion: B. Regan advised he had received comments, corrections and/or amendments from the board and made the appropriate changes

Motion passes: 5-YES, 0-NO, 1-ABSTAIN (B. Benton)

PRELIMINARY BUSINESS:

1. Preliminary Consultation & Review – Thomas Duffield as agent for property owners Shirley and Jerel Benton for amendment to site plan relative to the proposed development of a "equipment storage/maintenance" facility on property identified as Map 10 Lot 14-3, located on Stone Dam Road at Merrill Access Road

S. Babin read the foregoing at 6:05p.m. and discussion commenced in the absence of the parties involved. B. Regan presented an overview of the matter and stated T. Duffield had stated he would present an e-mail or other correspondence to set forth just what they are looking for this evening.

F. Freeman pointed out that he had been by the sight and said he thought it "looked like a serious gravel operation".

B. Regan stated that the original Notice of Decision (NOD) had conditions that either expired or had not been met.

S. Babin noted the NOD was bound by conditions that were not met.

(T. Duffield arrived at 6:10pm.)

S. Babin reviewed/explained the prior discussion to T. Duffield.

B. Regan reminded the board that the original NOD requires a "letter" from NH DORA.

[The matter was tabled until later in the meeting to allow for commencement of public hearing scheduled for 6:15pm]

The matter was removed from the table for further consideration immediately following the 6:45 hearing.

T. Duffield requested a "continuance" since the two-year condition for building completion had not been met and the time had expired.

S. Babin noted that the plan presented in support of the request shows the addition of an apartment and relocation of the building site.

B. Regan pointed out that the proposed changes would require an amended site plan application. He further noted that the original application was for site plan review and any excavation was to be "incidental" to permitted construction.

S. Babin pointed out that what was originally proposed has been expanded to be, in effect, a gravel pit operation.

D. O'Donnell suggested that a new application for Excavation Permit would be in order.

B. Benton agreed that a new application would be the "cleanest way" to accomplish what the applicant wants.

T. Duffield and S. Benton agreed to revise plans and submit an Application for Excavation Permit.

F. Freeman asked whether it may be appropriate to take an interim action.

B. Regan stated the board might consider removing the condition that construction be completed within two years but the "incidental" excavation still requires valid permitting. He suggested that applicant could seek an extension of the Zoning Compliance Application in order carry on any "incidental excavation".

After review and consideration, the board took the following action:

Motion: "To amend the Notice of Decision issued November 22, 2016 by removing requirement number 3. "Building construction to be completed within two (2) years of date of decision."

Motion: S. Babin

Second: G. Kimball

Discussion: None

Motion Passes: 4-YES 0-NO 2 ABSTAIN (F. Freeman, B. Benton)

COMMUNICATIONS:

1. Copies of the Board of Selectmen's notices of non-compliance relative to Map 6 Lot 5-1 were distributed to the board for informational purposes.

REPORTS:

Planning Director report(s):

- Planner Review regarding item H. 1.
B. Regan drew the board's attention to his Planner Review attached to the application for H.1 below.
- Planner Review regarding item H. 2.
- B. Regan drew the board's attention to his Planner Review attached to the application for H.2 below.

UNFINISHED BUSINESS:

1. See H 2. Below.

HEARINGS:

1. APPLICATION/PUBLIC HEARING- 6:15 pm: Application for a Permit to Excavate submitted by Shirley Benton for property owned by Shirley Benton and Jerel Benton and identified as Tax Map 10 Lot 3-41 located off Cross Road, commonly known as "Benton Enterprises".

B. Regan noted there was no written Planner Review for the item because it did not appear to be a completed application upon which an informed decision could be made. He further stated the application included a checklist copy which appeared to have been merely changed by altering "2015" to "2018" by making the 5 to an 8.

B. Regan further stated all abutters had been notified and receipts returned from all but one.

S. Babin read the above/foregoing and opened the public hearing at 6:15 pm.

B. Regan advised the board that the application does not appear to be complete enough for the board to make an informed decision.

T. Duffield stated "we are asking for a continuance" since they are not done with gravel removal from the pit, perhaps at 75%.

T. Duffield also stated he would update the state with information on the Alteration of Terrain Permit (AoT). He further stated he would "cc the town with that".

S. Babin asked T. Duffield if he could revise the plan to show "where the excavation is today" versus "where it was in 2015".

B. Regan stated the regulations do not provide for "a continuance" of the permit, but requires a reapplication prior to expiration. He further noted the submitted plan did not meet the requirements of the Excavation Regulations.

(S. Benton arrived.)

F. Freeman stated it seems there is some information that should be on the plan that is not now on the plan.

B. Regan responded "yes".

T. Duffield said he would check the "regs" and "checklist" and revise the plan accordingly.

S. Rossley asked to have the plan explained with respect to future excavation and where the "wetlands are" regarding her property.

T. Duffield conferred with S. Rossley over the plan document.

B. Patterson asked if the "end result would still be a 23 acre pond?"

D. O'Donnell asked what the expected completion date would be, given the current estimate of 75% complete.

S. Benton stated his estimate would be "4-5 years, maybe".

T. Duffield agreed to review the regulations and revise the plan to meet the applicable requirements.

B. Regan advised the board that the regulations require a completed application and, if found complete, a vote to approve or deny could then take place.

B. Regan also indicated that in the spirit of fairness the board may see fit to continue the existing term until the current application is submitted in full.

S. Babin asked for the wishes of the board.

The board then took the following action:

MOTION: "To extend the term of the existing permit [No. 2018-10-3-4] to January 31, 2019 pending further review of the application at next month's meeting".

Motion: F. Freeman

Second: D. O'Donnell

Discussion: None

Motion passes: 6-YES, 0-NO

The board then took the following action:

MOTION: "To continue discussion of the application and the public hearing to January 17, 2019 at 6:15pm".

Motion: D. O'Donnell

Second: F. Freeman

Discussion: None

Motion passes: 6-YES, 0-NO

2. APPLICATION/PUBLIC HEARING-6:30 pm: (continued from November 15, 2018) Application for Site Plan Review-Amy, Charles & Linda Pitman property at 3447 U.S. Rte. 3, Tax Map 6 Lot 5-1 for development/change of use for operating a "boutique" winery, café & gift shop in and upon the property.

S. Babin read the foregoing and re-opened the matter at 6:38 p.m.

B. Regan presented his "Planner Review" to the board.

S. Babin recognized Alfred Duguay.

A. Duguay said "So, we have been working with the state". "Actually, Joe Kenney Executive Councilor) was at the house yesterday to look over the property". "He's contacted DOT, again, to push this through"

S. Babin asked when you say "push this through" you are referring to the piece of land?

A. Duguay stated "they don't own it, the town doesn't own it, we don't own it". We been over to the (registry) deeds and found "...the last name of the owners was Kosoff".

S. Babin asked if the state had "given you a path" to clear get ownership.

A. Duguay stated "...they tell us we had to quiet the title or something like that...". "Right now it's a matter of sitting on a Federal and State license".

A. Duguay stated "I'm doing the thing to permanently close that road." "... get that done... the warrant article, so it goes before the next Town Meeting for the town to vote to permanently close that road." "We've been working with the state..."

F. Freeman asked when you say working with the state is it your understanding the state is going to give up their rights of way and ownership?

A. Duguay said "that's what Councilor Kenney said, the state's most likely going to release that right of way..."

B. Regan recapped his report by reminding the board that, at the time of last review the board found there were three items needed to be addressed. First was the state's interest. He pointed out a recent NH DOT letter to the applicants that set forth what needed to be done to allow for the state to release the majority of their interests. The second item is the town road which they seem to be on track for with a petition for abandonment. The third item is the ownership of the land. He said quieting title might be an option and if it is determined that Kossoff was the last known owner perhaps an action for Adverse Possession could be brought, whereas that could not be done against the state or town.

S. Babin suggested the board's problem was that it could not act on a plan which utilizes land that the business (applicant) doesn't own.

A. Duguay presented "another option" stating he prepared it in "five minutes". Suggesting parking to the West of the building.

F. Freeman asked it that was on land you own?

A. Duguay said "yes... it is our garden."

S. Babin suggested a revised plan could be reviewed at next month's meeting. Parking for the business is necessary.

F. Freeman noted it would have to show adequate parking.

D. O'Donnell suggested it should be presented in a formal plan for the board to review.

B. Benton agreed that any suggested solution should be put on a plan... if adequate that might work while you go after the other land.

A. Duguay stated "You and I both know no one is going to park there".

S. Babin asked A. Duguay if he wanted to continue the matter to next month? Or March?

A. Duguay responded affirmatively.

After consideration of the applicant's request and the Planner Review, the board took the following action:

MOTION: "I move that the board grant the applicants' request for continuance and place the matter on the agenda for Thursday January 17, 2019 at 6:30 p.m."

Motion: S. Babin

Second: D. O'Donnell

Discussion: None

Motion passes: 6-YES, 0-NO

3. PUBLIC HEARING-6:45 pm: Proposed Zoning Ordinance Amendment(s):

ARTICLE VIII: GENERAL PROVISIONS A. Accessory Apartments (proposed changes to section to be consistent with the Accessory Dwelling Units provisions of NH RSA 674: 71-72).

ARTICLE XV: FLOOD PLAIN, SECTION IV: CONSTRUCTION REQUIREMENTS_& SECTION VII: OTHER PERMITS, (proposal to change from references to “building permits” to references to “Zoning Compliance Applications”)

S. Babin read the foregoing and re-opened the matter at 7:19 p.m.

B. Regan re-distributed documents reflecting some proposed changes to the Zoning Ordinance for the board’s further review and consideration. They were entitled: “existing provisions”, “proposed revisions” and “applicable statutory provisions”.

B. Regan also distributed copies of both the Zoning Compliance Application and the Accessory Apartment Application as requested by the board to review the septic compliance requirements.

B. Regan stated, with regard to Article XV, Sections IV & VII, it basically a “housekeeping” matter and is necessary to clarify provisions that apply to their review of Zoning Compliance Applications.

He also stated, with respect to Article VIII the proposed amendments are to bring Thornton’s present provisions more in line with the state statute and its language as amended in 2016 regarding applications for “Accessory Dwelling Units” which are currently known as “Accessory Apartments” in the Thornton Zoning Ordinance.

After general discussion, the board concentrated on the provision requiring satisfaction of the provisions of NH RSA 485A-38 with regard to adequate septic/wastewater capacity.

Upon further review of all documentation the board then took the following actions:

MOTION: “I move that the board recommend to the Select Board that the proposed changes to ARTICLE VIII: GENERAL PROVISIONS A. Accessory Apartments be considered for inclusion in the Town Meeting Warrant to be consistent with the Accessory Dwelling Units provisions of NH RSA 674: 71-72.”

Motion: F. Freeman

Second: G. Kimball

Discussion: None

Motion passes: 6-YES, 0-NO

MOTION: “That the board recommend to the Select Board that the proposed changes to ARTICLE XV: FLOOD PLAIN, SECTION IV: CONSTRUCTION REQUIREMENTS_& SECTION VII: OTHER PERMITS, to change from references to “building permits” to references to “zoning compliance applications”_be considered for inclusion in the Town Meeting Warrant.”

Motion: B. Benton

Second: G. Kimball

Discussion: None

Motion passes: 6-YES, 0-NO

OTHER BUSINESS:

1. Master Plan-Consideration of revisions.

Chairman Babin requested that consideration of this item be postponed until the January regular meeting. The remainder of the board was in agreement

ADJOURNMENT:

The following motion was made at 7:47 p.m.

MOTION: "To adjourn."

Motion: G. Kimball

Second: Leslie Hoyt

Discussion: None

Motion passes: 6-YES, 0-NO

Respectfully Submitted,

Brian Regan, Planning Director

Thornton Planning Board Meeting

December 20, 2018

6:00 p.m.

Sign In Sheet

PLEASE **PRINT** YOUR **NAME AND ADDRESS.**

Thank you!

| | Name | Address |
|-----|-------------------|---------------------------------------|
| 1. | SUSAN Ross/El | 136 Cross RD |
| 2. | Barbara Patterson | 10 Cricket Hollow Path Thornton, N.H. |
| 3. | Tom Duffield | Thornton, NH |
| 4. | Stirley Benton | Thornton, NH |
| 5. | A. D. Wray | Thornton NH |
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