

**OSSIPEE PLANNING BOARD**  
**Meeting Minutes**  
**April 16, 2024**

Minutes have been recorded for the convenience of summarization by Laura Nash, Boards & Commissions Secretary. Effective February 20, 2024, all recordings will be stored until further notice. Once the board accepts the written minutes, they become the official record of the meeting; any amendments to the minutes are noted in ***bold & italic*** type.

**Call to Order:** Ash Fischbein, Chairman called the meeting to order at 7:00 PM and requested all cellphones to be silenced.

**Pledge of Allegiance:** Was recited by all in attendance.

**Roll Call:** Ash Fischbein - Chairman, Sharon “Sharie” Cohen – Vice Chairman, Brian Ames, Tracy Fernandes (Selectmen’s Ex-Officio), Katherine Alexander, and Connie Billings

**Absent:** Krystal Eldridge and Bruce Stuart (Alternate)

**Public Input:** Chairman Fischbein called for any questions or discussions unrelated to any case being presented tonight. None was heard.

**Meeting Minutes:** Review to approve Meeting Minutes of February 20, 2024, March 5, 2024 were table until May 7, 2024 due to not having the appropriate quorum. Meeting Minutes of April 2, 2024 were reviewed to approve.

Corrections to April 2, 2024 minutes:

- Fernandes noted on page 1: Tracy ~~Fernandez~~ ***Fernandes***
- Billings noted on page 2: “because they had the ~~tool~~ ***tank*** next to the pond.”
- Fischbein noted on page 3: “Master Plan discussion until the end ~~ed~~ of the meeting.”
- Cohen noted on page 4: “Mr. ~~Stewart~~ ***Stewart*** stated he...”
- Billings noted on page 5: “Mark and Jacob McConkey were ~~her~~ ***here*** to present...”
- Billings noted on pages 6: “Jonathan Smith noted commercial means it’s not going to be for rent, and it’s not going have daily changeover of customers and it’s within the family and having dues paying family members and it stays within the family. Should read “Jonathan Smith noted ***the family campground stays within the family and the family members pay dues and*** commercial means it’s ~~not~~ going to be for rent, and it’s ~~not~~ going ***to*** have daily changeover of customers.”

A **Motion** by Billings to approve the Meeting Minutes of April 2, 2024 as amended. Cohen seconded. No discussion. B. Ames abstained. All others voted in favor by a show of hands. **Motion Passed.**

**Informal Discussion:**

- Mohanbhai Patel for 870 Route 16 (former Dunkin Donut’s) presents to discuss his plan for the property and to get direction from the Board on how to proceed.

Mr. Patel noted they are in the process of purchasing the property and have no plans to change on the outside. But the empty space on the right side of the building they would like to open a smoke shop. Chairman Fischbein inquire about the Dunkin Donuts side of the building. Mr. Patel noted that Dunkin Donuts will remain for at least another year while they obtain state approval for their new location. Afterwards the goal would be ro find a new tenant like Aroma Joe, Taco Bell, etc.... but another drive-thru type of restaurant.

Discussion on the intended use ensued but for whatever reason it never happened. Chairman Fischbein recalled it was supposed to be a Dunkin Donuts and a Baskin Robins but it never happened.

Billings made copies and distributed a floor plan provided by Mr. Patel. Chairman Fischbein conveyed to Mr. Patel that this Informal Discussion is non-binding on both parties but for the purpose of the new members to experience and an opportunity to ask questions. The question will be whether he needs a Site Plan Review or an SPR Amendment.

File history noted that in 2015 a Site Plan Review Amendment was approved to add the addition for 20 seats for the restaurant. Chairman Fischbein clarified with Billings, who thinks as long as the use stays commercial as a retail shop, Mr. Patel would be good to proceed. The secretary noted, if Mr. Patel changes the use on the other end of the building to retail, that's not restaurant to restaurant and would require a Site Plan Review Amendment because of the change in use from restaurant to retail. But because that end of the building had never followed through with the previous amendment, that approval become null and void.

The question and discussion over whether or not this property has ever had a Site Plan Review for its businesses ensued. The secretary retrieved the property file for review. The file has an application for a Special Use Permit for the septic system in 1991 and an amendment to the Special Use Permit for the septic system in 1994 but there is no paperwork indicating that a Site Plan Review was ever done.

B. Ames suggested a full Site Plan Review would be the safest option considering that their would possibly be a new tenant on the vacant side.

K. Alexander agreed with Ames considering the age of the paperwork. But Billings clarified that the age of the paperwork does not matter as long as it was approved by the Board.

Billings agrees with B. Ames for a full formal Site Plan Review. In the meantime, Billings recommended to Mr. Patel that he consider exactly what he wants to occupy the space before he comes back for the Site Plan Review. Because if he changes his plans after he gets approval, then he would have to come back for amendment especially if he changes the outside footprint of the building.

Mr. Patel explained that he has no plans to change the outside of the building. The Dunkin Donuts side of the building will remain a restaurant and to opposing side he would to add a smoke shop. Discussion ensued.

Chairman Fischbein stated there is a mention in the minutes from 1994, which states, "The Chairman mentioned that site plan review would not be necessary since there are no changes on the site plan." Which implies there was a site plan review but it's not located in the file.

Chairman Fischbein stated for the sake of keeping the records up to date in the Town the Board advised Mr. Patel that he would be required to apply for a full Site Plan Review to bring all uses up to date. It should not be too intrusive since there is an existing plan that he can work with. Chairman Fischbein thinks it would be in the best interest of Mr. Patel and to future Board members that there be a full site plan review clearly describing the uses.

Mr. Patel informed the Board that if Dunkin Donuts does not get their approval for the new location; they have a stipulation of 2 ten-year leases to stay at the current location. Mr. Patel inquired about the current status for Dunkin Donuts and are they moving forward. Chairman Fischbein informed Mr. Patel that they are moving forward but they have several state level approvals to obtain before coming back to the Planning Board for final approval.

The secretary informed the Board that Bruce Stewart was not going to make the meeting tonight. Chairman Fischbein decided to table the approval of the March minutes until the May 7<sup>th</sup>, meeting.

**Unfinished Business:**

- **Master Plan:** Discussion continues on other chapters... Chairman Fischbein moved the Master Plan discussion until the meeting while they wait for Bruce Stuart to arrive. Discussion tabled since Stuart was not going to attend tonight's meeting.

**New Business:** Chairman Fischbein read the description of the next case being presented.

- **Case #24-03-LM:** Calderwood Real Estate, Corp. owner; Arif Shaikh (President) is requesting a Lot Merger to merge a parcel of land on Route 16. Tax Map: 080 Lot: 001 with 151 Route 16B. Tax Map: 087 Lot: 039 to become one lot of record under 151 Route 16B.

Chairman Fischbein explained to Tracy Fernandes and Kate Alexander that for lot mergers that applicant is not required to attend. No abutters are notified. Fernandes inquired if there were any reasons the Board would reject the merger. Chairman Fischbein asked Billings to explain some reasons. The secretary noted lot size, or don't own the property. They cannot make lots more non-conforming but Billings corrected stating that would be more for a boundary line adjustment. Billings stated unpaid taxes on either parcel.

Discussion ensued over lot mergers involving association land and whether the Board should require a letter of approval from the association. Chairman Fischbein stated it's not a requirement and the secretary agreed that it's not a requirement under law but the Planning Board in the past has requested a letter of approval from the association. Cohen stated the Board discussed the issue and decided since it's not required under law then it was not the Planning Board's problem but the association could over rule the Planning Board. Billings noted it depends on what the rules state in the association by-laws. Chairman Fischbein stated he asked that question but the only concern seemed to be the loss of association dues. In which case the association was encouraged to reach out to CAFUA Realty Trust, LLC to come to some agreement but the Planning Board has no authority over the association aside from complying with zoning ordinances. Discussion ensued.

Chairman Fischbein informed the Board of the location of these parcels down by the old hardware store. Discussion ensued. Chairman Fischbein closed all discussion.

A **Motion** by Billings to accept the application as complete for **Case #24-03-LM:** Calderwood Real Estate, Corp. owner; Arif Shaikh (President) request a Lot Merger to merge a parcel of land on Route 16. Tax Map: 080 Lot: 001 with 151 Route 16B. Tax Map: 087 Lot: 039 to become one lot of record under 151 Route 16B. B. Ames seconded. No further discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

A **Motion** by Cohen for **Case #24-03-LM:** Calderwood Real Estate, Corp. owner; Arif Shaikh (President) to Grant a Lot Merger to merge a parcel of land on Route 16. Tax Map: 080 Lot: 001 with 151 Route 16B. Tax Map: 087 Lot: 039 to become one lot of record under 151 Route 16B. B. Ames seconded. No further discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

Billings inquire to the amount of acreage involved. The secretary noted that Route 16. Tax Map: 080 Lot: 001 has 24 acres and 151 Route 16B. Tax Map: 087 Lot: 039 has 1.966 acres for a total of 25.966 acres.

**Notices:** The Board acknowledge and reviewed the notices. No action required.

**NHDES**

- **File # 2024-00378:** Deborah Randall of 50 Leavitt Rd. and Loon Island-Leavitt Bay. Tax Map: 032 Lot: 013 for Standard Dredge and Fill Wetlands Permit Application is requesting additional information due by June 2, 2024.

Chairman Fischbein explained to Tracy Fernandes and Kate Alexander that occasionally the Board will receive notices from the state. The state is looking for the Board to review and to reply with any concerns the Board may have with the proposed project.

The secretary noted that this letter is requesting of the applicant an Avoidance and Minimization Plan. The applicant has submitted his plan and the Board reviewed the plan which does not address what is being asked for by the NHDES.

### **ZBA**

- **Case #24-02-V:** Owners: Keli & Michael Wynne of 10 Frost Road. Tax Map: 066 Lot: 052 is Granted a Variance from Zoning Ordinance Article 6.4.2 (a) Side setback and Article 8.2 Greenspace to construct an attached 20 ft. x 26 ft. garage and an 8 ft. x 15.5 ft. breezeway within 12.6 ft. (NE Corner) and 16.3 ft. (NW Corner) of the side property line.

### **Any Other Business Which May Come Before This Meeting:**

- **Official District Map:** Billings inquired if Jim Rines submitted the Zoning District map the Planning Board hired him to update. Chairman Fischbein confirmed he had and the secretary noted that the Board has to vote to accept the revision in order to post to the public. He noted that Jim Rines had gone through all Town Reports and based on votes redid the zoning district map to incorporate everything over the past 10 years. This is the Board reference to proper zoning.

A **Motion** by Billings to accept the revised Ossipee Zoning District map dated June 6, 2023 as the Official Ossipee Zoning District map. Fischbein seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

### **Next Meeting:** May 7, 2024: @ 7:00 pm at the Freight House

Chairman Ash Fischbein called for any other business. None heard.

Chairman Ash Fischbein called for a motion to adjourn.

### **Adjournment:**

A **Motion** by Billings to adjourn. Cohen seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

**Meeting adjourned** at 7:53 PM.

Minutes approved by majority vote of the Board on –

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ash Fischbein, Chairman  
Ossipee Planning Board

\_\_\_\_\_  
Sharon “Sharie” Cohen, Vice - Chairman  
Ossipee Planning Board