

**OSSIPEE PLANNING BOARD
MEETING MINUTES
April 18, 2017**

Minutes recorded by and transcribed by Laura Nash, Planning Board Secretary, amendments are noted by ***bold/italic*** type.

Call to Order: Chairman, Connie Billings called the meeting to order at 7:00 PM.

Pledge of Allegiance:

Attendance by Roll Call: – Connie Billings-Chairman, Roy Barron-Vice Chair, Sandra “Sam” Martin-Selectmen’s Rep., Dennis Legendre, Bob Gillette, Tim Otterbach, and Steve McConarty (ZEO).

Absent: Rick St. Jean **Late Arrival:** Peter Zavas

Meeting Minutes: the Meeting Minutes from 4 /04/2017 were reviewed. Copies provided for review.

A Motion made by **Billings** to approve the minutes of the 4/04/2017 Planning Board meeting. Seconded by **Barron**. Called for discussion.

Gillette requested a correction on page 3 under “**Board Discussion:** Gillette spoke with Carol Garland and Ted Bateman about providing ***background of housing market and vacancy rate*** for the Master Plan.”

Board members agreed. Changes made. Billings and Barron withdrew previous motion.

A Motion made by **Billings** to approve the minutes of the 4/04/2017 Planning Board meeting as amended. Seconded by **Gillette**. No further discussion. A unanimous vote was taken.

Financial:

- **Planning Board Fee Schedule:** Revisions were made in accordance with PB decision at the April 4, 2017 meeting.

Motion made by Billings for Board approval of the Revised Fee Schedule and to schedule a Public Hearing for May 2, 2017 at 7:00 pm for public input. Martin seconded. No further discussion. A unanimous vote was taken.

- Sager & Smith, PLLC – Invoice for Planning Board – General Matters - \$486.97 **A Motion** made by **Barron** to approve paying the bill in the amount of \$486.97. Seconded by **Billings**. No discussion. A unanimous vote was taken.
- Sager & Smith, PLLC – Statement received for Planning Board – Morse (gravel pit) - \$6,874.25. Billings noted no action required.
- Budget & Revenue Reports: March 2017. Billings noted no action required.

Unsatisfied Conditions: (continued from previous PB Mtgs) Connie B. noted - NO UPDATES

Board	Date	Applicant	List of Conditions
PB	11/03/2015	LBWD	Ltr stating manufacturing/light industry only. – Letter to be sent by PB to BOS requesting ZEO to investigate.
PB	09/20/2016	WWSCR-Northgate Ossipee, LLC	SPR granted pending remaining conditions: Pending Court decision. #1: Water Supply Approval
PB	09/20/2016	WWSCR-Northgate Ossipee, LLC	SPR granted pending remaining conditions: Pending Court decision. #2: Subdivision Approval
PB	09/20/2016	WWSCR-Northgate Ossipee, LLC	SPR granted pending remaining conditions: Pending Court decision. #3: NHDES Septic Approval

Informal Discussion:

- Ralph Buchanan wants to expand Storage Unit business on Route 16. Buchanan presented his plan for adding (4) four more storage buildings. Buchanan instructed to meet with PB Secretary to pull previous Site Plan Review file. Buchanan may need to apply for an Amended SPR.

Late arrival of Peter Zavas at 7:15 pm.

New Business:

- **Case # 17-2-SPR:** Irving Energy c/o Michael Henault, 135 Route 16B - property owner Highlands Fuel Delivery, LLC. Tax Map: 87 Lot: 28 & 30. Given Conditional SPR Approval on 04/04/2017. **Revised Plans received April 18, 2017.**

Conditions:

1. To provide a minimum size of 24 x 36 Full set of stamped
2. Perforated piping for increased drainage,
3. Plans of tank and piping specifications, abutments, tie downs etc....

Billings noted the conditional requirements are illustrated on the plans but the plans are not valid because there is no "Ossipee Planning Board Approval Box" for signatures on the plans.

A Motion made by **Billings** for Nash to contact Mr. Henault for another set of plans with a signature box. Seconded by **Barron**. No discussion. A unanimous vote was taken.

A Motion made by **Billings** to continue the case until the next scheduled Planning Board meeting on May 2, 2017. Seconded by **Barron**. No discussion. A unanimous vote was taken.

- **Case # 17-3-SPR:** (Case Continued from 3/21/2017) Valley Point, LLC c/o White Mtn Survey, to develop 2400 Route 16. Tax Map: 7 Lot: 11. Intends to raze all existing manmade features and redevelop the to include a 5,000 sq. ft. convenient store w/ 25 parking spaces, drive-up window for coffee & prepackaged food, a dedicated service and unloading area. Four (4) two (2) fuel pump dispensing islands, a fuel delivery station, drinking well water, 600 – gallon per day effluent disposal system and driveways onto routes 16 & 41 etc....

- Letter received 3/31/2017 from Fire Chief Carl Huddleston plans meets all requirements
- Letter received 4/06/2017 from Noreen Downs opposing the project.
- Town of Tamworth letter received 4/10/2017 appointing Steve Gray as the representative regarding the project.

Jim Rines and Mark Lucy submitted and distributed updated plans, lighting specifications, and a revised Drainage Report. Along with a list of permits required per request of the Planning Board.

Rines started his presentation by introducing Mark Lucy, Senior Design Engineer with White Mtn Survey & Engineering, Marshall Hickok - Legal Counsel for the owners. Also present is Dennis Boisvert, P.E., designer of the underground storage tank systems.

Rines submitted a letter from Fire Chief, Carl Huddleston, who states the plan meet all requirements. Per the conditional requirements for application acceptance as complete, Rines provided the Fire Chief's letter; the photometric plan and the NFPA Citation Codes for automated fire suppression which are required for un-manned stations. Since the Fire Chief is already requiring automated fire suppression, the conditional requirement is a moot point. Rines stated they will be providing automated fire suppression under the canopy.

A **Motion** by Barron to approve the application. Seconded by Martin.

Point of Order by Mark Lucy clarifying the Board is accepting the application not approving as previously stated.

Billings clarified the motion is to accept the application as complete. Billings called for discussion from the Board. Gillette asked at what point Chairman Billings wants to address Tamworth's request for abutter's status. Billings informed Gillette the application has to be accepted as complete, first.

No further discussion. A Unanimous vote was taken.

Rines addressed Gillette's inquiry of abutter status for the Town of Tamworth. Billings interrupted stating the Board needs to bring the discussion to the table before Rines concerns can be heard.

A **Motion** made by Martin to not accept this project as "Regional Impact." Barron seconded.

Billings called for discussion.

Gillette questioned on what basis you would deny this project is not Regional Impact, when the law clearly states of sharing an aquifer.

Legendre disagreed stating that's not true. Because the RSA states anyone can speak on a topic but the Board does not have to grant them abutter's status.

Gillette started to read a section of the RSA, but was instructed by Billing's that if he is going to read the RSA is the read the whole RSA verbatim. Gillette proceeded to read RSA 36:54, 36:55 and 36:56 – Review of Developments of Regional Impact".

Billings called on Steve Gray and asked if Tamworth is requesting abutter's status. Gray asked if a letter was received. Billings noted a letter was received appointing Mr. Gray as a representative/spokesman for the Town of Tamworth for this case. But Billings stated there was no request for abutter's status. Nash referred a letter to Billings but the letter was not acceptable because it was signed by the Town Administrator, not the Selectmen. The Town Administrator has no jurisdiction over the Selectmen.

Billings asked Mr. Gray, as the appointed representative, is Tamworth requesting abutter's status, If so, to please explain what impact it will have on Tamworth because the aquifer is not under Tamworth. Gray explained how he believes Tamworth and Ossipee share the aquifer for water. Gray went on to say, they share the idea of seeing this property being used but wants the aquifer to stay safe for drinking water.

A **Motion** by Martin to not accept the Town of Tamworth abutter status based on regional impact. Barron seconded.

Board discussion: Gillette questioned how regional impact is not a basis for Tamworth to be considered abutters status.

Otterbach corrected Billings claim that Tamworth and Ossipee do share the aquifer. Billings and Barron disagreed with Otterbach.

Rines addressed his arguments of not granting the Town of Tamworth abutters status based on regional impact. Acknowledging, RSA 36:54 (I) – Purpose of providing timely notice to potentially affected municipalities concerning proposed developments of potential impacts and certainly letters to the editor by Green Mountain Conservation Group, increased attendance at local Board of Selectmen, Planning Board and Conservation Commission meeting for a couple of months could constitute ample notification. Rines stated because of the public attention the Board of Selectmen for the Towns of Madison and Freedom voted not to seek abutter's status. Rines noted Tamworth is the only town seeking abutter's status when Tamworth has no zoning ordinances or ground water resource protection regulations in their town. Rines commented that if this project was 412 ft. further north, in the town of Tamworth, it would not even be

reviewed by town officials. Rines noted Tamworth is free to comment and express concerns but would recommend the Planning Board vote to not consider regional impact for the Town of Tamworth.

Barron spoke of a super fund available for clean-up and spoke of improved technology, regulations and safety features with tanks, fittings, detections.

Gillette commented on Rines rational and stated none of the examples given is considered disqualifying factors in the RSA. Claims municipalities do not have to have zoning to be given abutter's status. They have to share an aquifer or be a neighboring town.

Billings called for a vote by roll call.

Vote by Roll Call: Legendre – Yes Martin – Yes Barron – Yes Zavas – Yes = 4 in favor
Otterbach – No Gillette – No = 2 in opposition.

Motion passed 4 – 2 to not accept Tamworth abutter status based on regional impact.

Gillette requested the Planning Board ask Town Counsel to review the decision to ensure the Planning Board has made a proper decision. Several board members proclaimed a no answer.

Billings explained the Board “may or may not” grant abutter's status, it does not say, “Shall.”

Gillette again requested the Planning Board ask Town Counsel to review the decision was proper ... to ensure the decision follows the law.

Gillette was asked what he considered “not proper” about the vote. Billings asked for specifics because if Gillette wants to incur cost of legal fees to the Town, Billings wanted specifics. Gillette indicated, “The law states if there is doubt concerning regional impact, it shall be resolved in a determination that the development has a potential regional impact.” Several Board members resoundingly expressed a no decision. But Gillette kept voicing his opinions until the Chairman and Vice Chairman told him the discussion is done ***because Town council had already resolved the issue.***

Rines submitted a written list of permits required per request of the prior Planning Board meeting. The list is as follows:

1. NHDOT Entrance Permit
2. NHDES Sewage Disposal System Permit
3. NHDES Water Supply Permit
4. NHDES Underground Storage Tank (UST) Permit

Rines noted when the final plans are submitted to NHDES and the Planning Board it will provide some features that are over and above that is required by the underground storage tank division. Which include the following features:

- Full collar, double wall leak capture sumps at the dispensing pumps
- 15 gallon Full Collar sumps at the fill points rather than the required 5 gallon
- Fill area to have concrete curbing all around surrounding it, so if there are any spills it will first go to the fill collars. If the spill was to overflow to a larger spill, it would go into a catch basin which will flow into an oil and water separator.
- 2,000 gallon Oil and Water Separator
- Concrete apron to go under the full width of the canopy to catch any excessive spillage, which will flow into oil and water separators.

- Extended concrete curbing to the parking area along Route 16 side to catch any storm water run-off.

Rines stated they are not providing triple wall piping because the piping only comes in fixed sections and every joint increases the risk of leaking. But with the use of coaxial piping in a flexible conduit and you can get straight runs with less joints.

Gillette inquired what material are the coax piping made of.

Rines referred to Dennis Boisvert, who explained flexible pipe is made of nylon, which is URL rated pipe that is a coaxial pipe a very small space between them, which creates the primary and secondary. The outside is a corrugated polyurethane.

Rines explained the dry wells were moved, based on concerns, and the storm water run-off has been reconfigured towards the oil – water separator. The dry wells have moved to the other side of the property.

Mark Lucy presented the outcome of the April 6th, Traffic Scoping meeting with NHDOT as follows:

Traffic: attended by Lucy, NHDOT officials and Hank Letarte, Traffic Engineer

1. Route 16 & 41: have plans for a 4-way traffic light
2. Route 25 onto 16 North: plans to widen road for a left turning lane
3. NHDOT would like to coordinate with the Route 16 & 41 developer for a traffic impact study to determine how far up Route 16 to have the left turning lane.
4. NHDOT is disinclined to have a turning lane off Route 41, until the 4-way light installed.
5. Route 41 will not be realigned with Covered Bridge Road. NHDOT's intent is to only resurface and widen within their own right of way. Lucy confirmed NHDOT is aware of the soil contamination under Route 41 and does not want to disturb the earth at this time.
6. Contracted with Lithonia Lighting from New Hampton for Visible Lighting with a photometric plan. Lighting will all be downward lighting with shielded KACM LED surface luminaires. Attention to the height of the canopy with lighting is 9.5 ft. Most trucks will not clear the canopy. Lucy is to review and follow up.
7. Drainage: Running a closed drainage system across the north lot to a ground water recharge area (dry wells) to a catch basin of Oil and Water Separator.
8. Storm water run-off will drain towards the dry wells and catch basins, which will filter particulates as well as the 2,500 gallon Oil and Water Separator.
9. Revised Drainage Repot submitted.
10. Ground Water Recharge Area: upstream of the plume on Route 41 will be dispersed well before it gets to the plume.

Otterbach referred to a study from 2006 by Dr. Robert Newton, a leading authority of the aquifer. Water generally flows from north to south. Find it hard to believe the aquifer will not get contaminated. Lucy clarified how the drainage system works in further detail. Rines explained there is 24 years of bi-annual testing of this specific site, so it's not generalized report, and the water has never been higher than 20 feet. Testing will continue until the site is completely remediated. Marshall Hickok noted there is no contamination on it has moved to under Route 41.

11. Cemetery Trustees: Lucy met with Trustees on 4/16/2017 and research of the property shows there is no formal right of way or easement from this project site to the cemetery. The landowner has granted White Mountain Survey & Engineering to provide an 8 – 10 ft. access driveway to the cemetery with a 16 ft. landing atop the cemetery. The material will come from the excavation of the underground storage tanks.

12. Ground Water Protection:

- i) Signs shall be posted at the fuel dispensing stations instructing customers not to top off tanks and notify employee in the event of a spill.
- ii) Emergency shutoff switches shall be plainly labeled at each fuel dispensing station.
- iii) A spill notification list shall be maintained within the building. List will include names and phone numbers of local Emergency Management, Remote Emergency Management, Local Fire Department, Local Police Department, Spill Response Contractors and any other local and state agencies that the West Ossipee Fire Chief deems necessary to be notified.
- iv) Employees shall be trained in spill response procedures including:
 - (a) The proper use, storage and disposal of absorbents
 - (b) Maintenance of the positive limiting barriers
 - (c) Maintenance of storm water management system
 - (d) An understanding of best management practices for eliminating the off-site migration of on-site surface water.

Otterbach questioned the on-site well monitoring of well 1, 3 and 6. Site Plan Review only shows monitoring from well #3. Otterbach would like information on the other wells. Hickok explained the report was an exhibit for well number 13 which prompted NHDES to send a well monitoring notice to the public, essentially alarming them of a chemical found during one testing. Prior and subsequent testing has never shown this chemical ever being detected on well number 13. Hickok explained the results of all well monitoring testing is readily available on line at NHDES. Otterbach felt it is incumbent on the applicant to include results from all 3 wells on-site. Rines will gather information on well numbers MW001 & MW006 for questionable height of groundwater.

Billings called for a five minute recess at 8:32 PM

Billings reconvened the meeting at 8:36 PM

Rines commented they have tried to provide all the information requested by the Planning Board and inquired to what phase is the Planning Board considering this hearing. Billings noted phase II.

Billings referred to Zoning Ordinance 5.8 for tanks 40 ft. underground to be added to the final set of plans showing anchors. Rines noted the anchors are not a required for fuel tanks only propane tanks are required to be anchored.

Otterbach had questions related to soil samples.

Billings open to public input:

Corey Lane with Green Mountain Conservation Group had concerns for residents smelling fuel per Zoning Ordinance 5.3 and Site Plan Review Regulation 8.03. Lane tried to inject studies from other countries but various Board members interjected stating regulations between the US and other countries differ so much it's not effective useable reference.

Ralph Buchanan provided history from his own experiences and stated with good maintenance, you ultimately keep good water.

Joe Deighan questioned vapor recovery system; double wall tank verses triple wall tanks. Rines explained the structure of the tank. Discussion about the 1993 leaking tank was from a 2 inch hole on the bottom of the tank which was caused by the long metal poles used to check the level of fuel in the tanks.

Kathy Perry of Madison inquired of how the continuation of education and monitoring of employees will be handled. Martin and Billings indicated it is up to NHDES and the owners to monitoring training and

education for employees.

Emily Falcon would like the traffic study be elaborated upon. Billings commented that it's up to NHDOT and any suggestions by the Planning Board have been declined by NHDOT. Discussion ensued over how much of Route 16 is being widened and whether it would go beyond the fencing. Discussion ended pending final NHDOT plans.

Corey Lane suggested the Board consider an independent Site Plan Review given the seriousness of this site. Billings replied not at this time. Billings informed Rines the Board is going to take this case under advisement for a month.

A **Motion** by Martin to close the public hearing. Barron seconded the motion. No discussion. A unanimous vote was taken.

Otterbach interjected wanting to ask one more question. Martin stated there is a motion on the floor.

Billings called on Otterbach, who started stating statistics on vehicle to population ratios. Billings abruptly interrupted Otterbach. Billings informed everyone it is not within the realm of the Planning Board's responsibility to determine what type of business goes in where. The Planning Board's responsibility is to ensure Zoning Ordinances and Site Plan Review Regulations are followed in conjunction with State of NH RSA's.

A **Motion** by Billings to continue the application of Case #17-3-SPR until May 16, 2017 Planning Board meeting. Martin seconded.

Point of Order: by Lucy, who was confused if the Board was closing the public hearing or closing public input based on Martin's motion?

Discussion ensued. The motion will stand as stated but the Planning Board has the option of soliciting input from the applicant at future meeting, if needed.

Gillette asked for Marshall Hickok's opinion. Hickok asked what phase this application is in or moving towards. Billings noted the application is in phase II moving towards phase III.

Point of Order by Rines asking if the case is continued until May 16, 2017. Billings explained the case is continued until May 16th but the Board will discuss it at the May 2nd meeting. Mr. Lucy is hereby notified of the intent and is available to attend the meeting on May 2nd for any potential questions by the Board and to provide representation for the applicant.

Repeat of the **Motion** by Billings to continue the application of Case #17-3-SPR until May 16, 2017 Planning Board meeting. Martin seconded. No discussion. A unanimous vote was taken.

Intent to Excavate:

1. Town of Ossipee, Route 28. Tax Map: 124 Lot: 23 Plant #606. Total acreage of Lot: 20. Total Permitted area is 0.75 acres. Excavation of estimated 1,000 cu. yds. Of sand. Minor yard cleanup Excavation & Maintenance. To be done by Coleman Concrete. Taxes paid.
2. Town of Ossipee, Route 16. Tax Map: 130 Lot: 10. Total acreage of Lot: 300. Total Permitted area is 25 acres Phase I. Excavation of estimated 1.5 acres. Excavation of estimated 2,500 cu. yds. of Sand. Remaining Cubic Yards of Earth to Excavate is 8.3 Million cu. yds. To be done by Richard Sampson – Dir. Of NH Operations. Taxes paid.
3. Town of Ossipee, Route 16. Tax Map: 266 Lot: 07. Total acreage of Lot: 1,318. Total Permitted area is 1,318 acres. Excavation Area (acres) as of April 1 is 30. Reclaimed Area (acres) is 192.8. Remaining Cubic Yards of Earth to Excavate is 26,808, 951 cu. yds. of Sand & 4,163,081 cu. yds. of Stone. To be done by Richard Sampson – Dir. Of NH Operations. Taxes paid.

ZBA Cases: [Continued until 4/11/2017](#)

- **Case # 17-3-V:** Robert Perry – 4 Forest Lane. Tax Map: 65 Lot: 023 Sub: 33 – has applied for a Variance from Article VI Section: 6.4.1. A & 6.4.2.A of the Ossipee Zoning Ordinance to replace an existing shed and construct a new utility shed within the 40 ft. frontage setbacks.

Old Business:

Projects 2017: Status quo, will address at next meeting due to lateness of tonight's meeting.

1. Zoning Ordinance Revisions:
2. Master Plan Revision

Notices:

Billings read notices aloud to Board & attending public.

- **GMCG** – Notice of Upcoming Workshops
- **NHDES** – Invitation to Annual Drinking Water Source Protection Conference
- **NH – EOP:** 23rd Annual Spring Planning & Zoning Conference
- **Job Opportunities:** Nash read a notice received 4/18/2017 of two open positions with the Town of Ossipee. One is for a Finance & Benefits Administrator and the second is a Laborer/Attendant at Camp David Sewage Lagoons. Applications are being accepted no later than May 3, 2017.

Adjournment:

Motion made by Barron to adjourn the meeting. Martin seconded. No further discussion. A unanimous vote was taken.

The meeting adjourned at 9:23 p.m.

Next Meeting: **May 2, 2017 @ 7:00 pm**

Minutes approved by majority vote of the Board on –

Date

Condict (Connie) Billings,
Planning Board Chairman