

**OSSIPEE PLANNING BOARD
MEETING MINUTES
May 16, 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, Rick St. Jean, Tim Otterbach, Peter Zavas and Steve McConarty (ZEO).

Meeting Minutes: the Meeting Minutes from 5/02/2017 were reviewed.

A **Motion** made by Martin to approve the minutes of the 5/02/2017 Planning Board meeting. Barron seconded. No discussion. A unanimous vote was taken.

Financial:

- Sager & Smith, PLLC – Invoice received for Planning Board – General Matters - \$105.00

A **Motion** made by Barron to approve the payment in the amount of \$105.00 to Sager & Smith, PLLC. Martin seconded. No discussion. A unanimous vote was taken.

Unsatisfied Conditions: (continued from previous PB Mtgs) – Status quo

Board	Date	Applicant	List of Conditions
PB	11/03/2015	LBWD	Ltr stating manufacturing/light industry only. – Status quo 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

New Business:

Chairman Billings asked Barron to read description.

- **Case # 17-3-SPR:** (Case Continued from 5/2/2017) 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 4/24/2017 by Marilyn Indelicato with concerns for Rte. 16 & 41 development

A **Motion** by Martin to not accept this project (Case # 17-3-SPR, Valley Point, LLC) as regional impact. Barron seconded.

Chairman Billings Opened to Board discussion. Gillette requested the rational for not considering this project as regional impact considering it seems to meet two of the criteria’s by town proximity and 2. Shared aquifer or surface water body.

Chairman Billings called for any further discussion. No discussion. Chairman Billings moved for a vote.

Vote: Chairman Billings called for a roll call vote: Legendre, Martin, Barron, Chairman Billings and Zavas voted in favor. Gillette and Otterbach voted in opposition. **Motion passed** 5 – 2 to not accept as regional impact.

Mark Lucy represented the updates from the 5/02/2017 meeting and provided final plans to the Board indicating notes have changed but the final design has not changed and permits have been submitted. Mark noted for the record, at the public hearing the applicant did not offer any information that was not asked for by the Board.

Chairman Billings commented it was a public meeting not a public hearing.

Chairman Billings called to move the case back into a public hearing and stated whether the Board is having a public meeting or a public hearing the public is always aloud to speak and voice their opinions and concerns.

Lucy represented the updates per Planning Board request; Fire Department and State Regulatory requirements are listed as follows:

1. NHDOT has approved dates for the traffic study which started today. Realignment of Rte. 41 is not part of the plan.
2. Have a designated area for the Fuel Delivery Station and will not require any waivers for any wells on-site or off-site.
3. Awaiting NHDES Water Supply Permit and will subsequently submit septic designs.
4. Underground Storage Tank (UST) – Dennis Boisvert received approval from the manufacturer of the equipment for use of a dual wall flexible pipe, which will not have any joints, thus reducing risks of leaks. Boisvert is completing design drawings to submit to NHDES.
5. Relocating Fuel Delivery Station pad 15 – 20 ft. west, are able to get co-compliant separation from the surrounding wells. Meeting setback requirements for mentioned at prior meeting.
6. The Oil and Water Separator is rotated clockwise and fits in the corner of the fuel delivery station area.
7. The well located closest to Route 16 & 41 has been moved slightly to meet setback requirements.
8. Oil and Water Separator is increased from a 2,500 gallon tank to a 3,100 gallon tank. Will be a two compartment tank which Lucy described.
9. Page 1 of the site plans contains all notes the Zoning Enforcement Officer will need to refer to during construction and beyond. The consolidated list of notes contains Ground water protection plan notes, Fuel Delivery and Dispensary notes, and Maintenance Schedule.
10. A change to the storm water collection system – everything goes through the oil and water separator prior to it discharging into a series of dry wells or deep sump catch basin which are extra depth sumps shown on page 6 of the site plans.
11. Fire Chief Huddleston was contacted directly and sent the updated plans with no further comments or request at this time.
12. Tank size and test pit sample: two test sites were sampled
13. Gate valve is not recommended at this time.
14. The 4 tanks are gravity fed with shut off sensors. Sensors on the Oil and Water Separator to detect fumes, weight, sheen etc...

15. Redesigned the closed drainage system to capture the whole site with limited to no excavation where the previous gas station pump locations. To utilize the State drainage system by running through a culvert out on Rte. 41 down Rte. 16 and connect to the State drainage system. Will need NHDOT permit for drainage system and the two driveways.

16. Canopy will be 16 ft. with night time lighting and LED fixtures (page 6)

17. Landscaping has been adjusted slightly around the oil and water separator. Curbing is complaint with NHDOT requires at the driveways.

18. Erosion sediment with storm water erosion plan is required to be prepared by professional erosion control designer and engineer (page 7).

19. Storm water pollution prevention plan is required do to size of plan.

Legendre asked, based on prior experience with inattentive delivery drivers, if there is some type of alarm to notify a driver the tank is approaching high fuel level. Barron noted most tanks are filled to 80% to allow for expansion.

Dennis Boisvert of DB Designs explained the slow to shut off flow devices with the delivery hoses which at 95% there is an automatic shut off of the fuel. Legendre adamant to have additional alarms notifying the driver. Lucy is to add an alarm device to sound alarm when tank is at 90% full capacity.

Boisvert presented a sample of the flexible coaxial piping to be used.

Open to Public Comment:

Rich (Fagan?) - questioned the use of doubled verses triple walled piping. It was explain with using double walled piping, they are able to use flexible coaxial piping in much longer length, which reduces the amount of connectors used, thus reducing the amount of possible leak sites. A lengthy discussion and explanation ensued.

Corey Lane of GMCG – requested to read a letter addressing the rules of procedures for this public hearing for the record. **Chairman Billings** requested to read the letter first.

Chairman Billings commented to Lane there are miss facts contained in her letter.

A **Motion** by Martin to make it part of the record but not read it in its entirety but to summarize its contents.

Gillette asked Lane if she wanted to summarize the letter. Lane agreed. Various Board members informed Gillette it is not his decision to make.

Chairman Billings asked for a second to the motion. Board member requested to read the letter before seconding the motion.

While PB read the letter, Chairman Billings asked for any other discussion.

Rich (Fagan?) explained his previous Navy experience with spills during Hurricane Irene. Questioned why no one representing the Valley Point, LLC is here to field questions. Chairman Billings identified Mark Lucy as the agent for the Valley Point, LLC. Rich went on to address 3 points of concern from a government perspective:

1. Concerns with disturbing grounds and contamination
2. Congestion concerns on Route 41 onto Route 16
3. Addressed having another gas station within a 10 mile range and the economic impact.

Chairman Billings and Barron both stated by law the Planning Board cannot restrict the number of similar businesses within an area. It's classified as discrimination and is against the law.

Mike Veilleux wants to hear Corey Lanes letter and the Board should not have denied her the right to speak. Chairman Billings noted she has not been denied the right to speak. The Board requested to read the letter first before voting on making it part of the record.

Joyce Watson questioned if there were changes to the Zoning Ordinance concerning the aquifer. Chairman Billings stated the original ordinance was passed in 1987. Valley Point, LLC went through the ZBA, who has the authority to override the vote. The ordinance was first written in 1987 and was overturned by the ZBA per their authority. Ms. Watson requested a copy of the zoning ordinance, was told they are on the Town website on page 57. Under 20.2.2 (a), the ZBA granted a Special Use Permit.

Point of Order by Tim Otterbach went into effect in 1989.

Chairman Billings asked Martin to restate her motion.

A **Motion** by Martin to make it part of the public record but it does not need to be read. Barron seconded.

Chairman Billings called for Board discussion.

Legendre noted questionable facts within the contents of the letter. Legendre does not have a problem with someone coming to a meeting and voicing their opinion, the Board needs to hear that. But, the facts need to be correct in what is being stated.

St. Jean does not want it part of the record.

Gillette would like Lane to summarize the contents.

Zavas believes everyone should a voice but to set a time limit of no more than two minutes.

Point of Order by Mellisa Seamans; Does the Town of Ossipee Planning Board currently have Rules of Procedure that detail the limits of public speaking during comment period?

Chairman Billings replied, no it is at the discretion of the Chairman.

Mellisa Seamans asked if it was based on the person speaking or the organization, they represent. Chairman Billings again replied no.

Chairman Billings called for a vote on the Motion to make the letter by Corey Lane of GMCG a part of the public record but it does not need to be read. No further discussion. A unanimous vote was taken. Chairman Billings abstained.

Chairman Billings called on Corey Lane.

St. Jean abruptly left the meeting muttering on his way out.

Otterbach took exception to the comments by St. Jean.

Discussion between Chairman Billings and Miss Lane over specific miss facts was heard.

Miss Lane also suggested getting legal opinion and having an independent engineering review the plans at the applicant's expense, similar to the Westward Shores project. Miss Lane claimed the variance granted is missing information, there is no audio recording, no deed, public notices was incomplete on May 2nd, and the public has a right to know. According to the agenda Valley Point, LLC would not be on the agenda.

Chairman Billings interrupted Miss Lane at that point and clarified.

1. There is a deed from Edward Sullivan to Valley Point, LLC.
2. The application was not accepted until April 18th.

3. The Planning Board has already obtained legal counsel and have secured a 91: A closed session opinion that was sealed. Miss Lane referred to Mr. Gillette asking for an attorney...Chairman Billings interrupted stating Mr. Gillette did not remember he had sent an email to Billings, which was forwarded to and responded by the Town attorney. Mr. Gillette got his answer from the attorney in a closed session under RSA 91 – A: 3, II (c) and was sealed.
4. May 2nd was an open public meeting. Miss Lane contested the agenda on the website did had Valley Point, LLC continued until May 16th. Gillette asked if Miss Lane could summarize her letter to the Board, so the meeting could move forward. Miss Lane argued how the public is supposed to be kept informed if the information on the website is not accurate.

Chairman Billings stopped the arguing back and forth and told Miss Lane, he will not allow anyone to denigrate the Board. The Planning Board holds a public hearing on the 1st & 3rd Tuesday of each month and is open to the public. He noted at the April 18th meeting Valley Point, LLC would be present for discussion on May 2nd and the public hearing would resume May 16th but all meetings and hearing are open to the public. Legendre noted there was some confusion at the April 18th meeting as to whether the May 2nd meeting would be open to public comment. But that's why the Board had Lucy repeat his updates at tonight's meeting, so the public is informed.

Miss Lane summarized her letter as to whether “due process” is being serve to abutters in other towns, having independent review or having legal counsel representation.

Chairman Billings stated Miss Lane has been at every meeting except the May 2nd meeting and has voiced her opinion. The Board has asked more of Valley Point, LLC and White Mountain Survey & Engineering than NHDES requires. Valley Point, LLC has gone above and beyond what is required. The Board has given every person the opportunity to speak and have **NEVER** denied anyone from the public or the Board the opportunity to speak.

Donna Veilleux of Madison would like to hear the rational of not inviting the Towns of Tamworth and Madison to the discussion. **Legendre** explained because the Board voted to not consider abutter status does not mean both Towns do not have an opportunity to speak. There a difference between the two. We are here to represent the people of Ossipee and we invite anyone to come in and voice their concerns. But we have not heard anything new from the public that we as the Board have not already addressed, questioned, or have asked Valley Point, LLC to do.

A brief Board discussion over interpretation of RSA 36:54 & 36:56 I.

Chairman Billings called for any more public input. None heard. Public Input was closed.

Chairman Billings asked if the Board ready for a vote but first asked Lucy if this is the final site plans. **Lucy** acknowledge pending any potential permit changes from State agencies these are the final site plans.

Otterbach requested in the best interest of the town, The Board continue this case until the next meeting to given the Board time to review the changes.

A brief discussion on the shut off sensor to be set at 90%.

A **Motion** by Otterbach to continue the application of Case #17-3-SPR until the next meeting on June 6, 2017 given the Board time to review the changes that have been made. Legendre seconded. Discussion: Gillette agrees. Zavvas questioned if the plans could change by State permitting. Lucy concurred. Chairman Billings stated that's why the Board uses “Conditional Approval” so if any changes are made the applicant has come before the Board again with any changes to the site plan before final approval granted.

Chairman Billings called for any more discussion. None heard.

Chairman Billings called for a vote: Gillette, Legendre, Zavvas, and Otterbach voted in favor. Barron and Martin opposed. Billings abstained. The **motion passed 4 – 2**.

Barron requested a brief recess. Chairman Billings granted the request at 7:59 PM

Chairman Billings reconvened the meeting at 8:01 PM

Old Business:

Projects 2017:

1. Zoning Ordinance Revisions: Steve McConarty supplied the secretary with a couple of zoning ordinances for revision. Will take up at next meeting.

ZBA Cases for May 9th:

- **Case # 17-3-V**: Robert Perry – 4 Forest Lane. Tax Map: 65 Lot: 023 Sub: 33 – was **GRANTED** 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.
- **Case # 17-1-AA**: The Town of Freedom was **DENIED** their request for an Administrative Appeal at a Public Hearing held by the ZBA on Tuesday, May 9, 2017. Contesting the Ossipee Planning Board's Conditional Site Plan Review Approval on September 20, 2016 to Westward Shores Campground expansion.

Notices:

NHDES – accepted a Wetlands Permit application from Marcin Jarmoc, 5 Furber Rd. Tax Map: 44 Lot: 74
Chalmers Hardenbergh – concerns for former Train Depot plans by Rymes Propane. Discussion noted the tracks are to remain. There is money appropriated to repair the tracks. Building will be for storage use.

Adjournment:

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

The meeting adjourned at 9:03 p.m.

Next Meeting: June 6, 2017 @ 7:00 pm

Minutes approved by majority vote of the Board on –

Date

Condict (Connie) Billings,
Planning Board Chairman