

OSSIPEE PLANNING BOARD
MEETING MINUTES
August 18, 2020

Minutes have been recorded for the convenience of summarization by Laura Nash, Planning Board Secretary and are deleted once minutes are approved; any amendments to the minutes are noted in ***bold & italic*** type.

REGULAR PUBLIC MEETING

Call to Order: Sharon “Sharie” Cohen called the meeting to order at 7:00 PM.

Pledge of Allegiance: was recited by all in attendance.

Roll Call: Sharon “Sharie” Cohen - Chairman, Connie Billings, Roy Barron, Jonathan Smith (Select. Rep), Bruce Stuart, Krystal Eldridge, and Alternate-Tim Otterbach

Absent: Ash Fischbein – Vice Chairman, and Steve McConarty (ZEO).

Meeting Minutes: Review to approve Meeting Minutes of 07/21/2020. Billings noted the minutes were approved at the previous meeting and they just need to be signed. The minutes of August 4, 2020 will be available for signing at the next meeting.

Financials:

- Budget Report: 07/01/2020 – 07/31/2020 was reviewed and noted that advertising is in the arrears and will need to be possibly increased for the next budget cycle.

Unsatisfied Conditions: (continued from previous PB Mtgs): See separate sheet with details.

Gravel Pits:

- **Case # 18-1-GP:** Pending receipt of signed agreement from Brad Leighton. *(Continued from 09/18/2018) “Pending a legally binding contractual agreement, drawn up by the Town Attorney, Rick Sager and Attorney, Jonathan Springer that if an heir of Mr. Coyne’s comes forth later on, the heir would be entitled to the surety when legally identified as such through Probate Court. Mr. Leighton will be required to put forth the cash surety for the gravel pit to be held for reclamation.”*

Brad Leighton c/o Jon Rokeh, Rokeh Consulting for 75 Chickville Rd. Tax map: 239 Lot: 001 has submitted an Earth Excavation & Reclamation Permit to re-open the 75 Chickville Rd. Gravel Pit, which is under new ownership.

1. Legal documentation to support which owner put forth the reclamation fees, Coyne or Leighton.
(Pending)

The secretary reported that Attorney, Rick Sager was pending receipt of the signed agreement from Brad Leighton and would forward a copy to this office once received. Barron stated he was told that Attorney Sager has had the signed agreement for over a month. Nash discounted the claim because she has been in contact with Attorney Sager and the agreement was signed a week ago.

A **Motion** by Barron to Continue **Case # 18-1-GP:** Brad Leighton c/o Jon Rokeh, Rokeh Consulting for 75 Chickville Rd. Tax map: 239 Lot: 001 until the September 1, 2020 Planning Board meeting. Smith seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion Passed.**

Public Hearing on Scheduled Cases

New Business:

- **Case #19-9-SPR:** (Continued until August 18, 2020) **REHEARING** –New Circular Wireless (AT&T)

c/o SmartLink. Representing Agent is Adrienne Banks for 88 Walker Hill Rd. Tax Map: 252 Lot: 022 are requesting a Site Plan Review for placement of a wireless facility per Section 6409 Eligible Facilities Request to add (9) wireless antennas, (9) remote radio units, (1) walk in cabinet and (1) generator to be installed. Also proposing to add an extension of the existing structure by (15) ft. to raise the tower from 122 ft. to a total height of 140 ft. at the wireless Base Station.

Attorney Ed Pare, representing AT&T wanting to extend the Crown Tower. Atty. Pare refreshed the PB that the case was originally continued until April 7, 2020 pending receipt of SE from the ZBA but returned on February 4, 2020 with revised plans in compliance with the zoning ordinances and was conditionally approved. That decision has been null and void due to insufficient abutters notification and the applicant is here for a rehearing. AT&T is currently on a tower owned by SBA, which is a lattice style tower. AT&T wants to move over to the Crown Tower, which is a monopole tower. AT&T wants to extend the height to 15 ft. They have a lease with Crown Tower and will eventually move over. Under State Regulations they can extend up to 20 ft. but are only going up 15 ft. to not exceed the 140 ft. zoning ordinance. This will help to increase coverage. There will be new equipment and a new sound buffering fence will be installed around the whole area.

Chairman Cohen raised Tim Otterbach up to voting status in place of Ash Fischbein.

Board Discussion: Billings requested clarification on the FCC Regulations and how it pertains to the Planning Boards authority. Atty. Pare explained the FCC in 2014 based on a 2012 statute that was passed instructing that if these types of towers or facilities around, they are to be reviewed and modified quickly and cannot be administratively denied.

A **Motion** by Billings for **Case #19-9-SPR: REHEARING** –New Circular Wireless (AT&T) c/o SmartLink. Representing Agent Attorney Ed Pare for 88 Walker Hill Rd. Tax Map: 252 Lot: 022 is Granted Final Approval for a Site Plan Review to move the placement of their wireless antennas from the SBA Tower over 50 ft. (per Section 6409 Eligible Facilities) to the existing Crown Tower and add a (15) ft. extension to raise the tower from 122 ft. to a total height of 140 ft. at the wireless Base Station. With the condition of installing a sound buffering fence per the plans submitted by Attorney Ed Pare dated August 14, 2020 and All Federal, State and Local Regulations shall be followed.

Chairman Cohen opened Public Input:

Attorney Derek Lick representing SBA Communications addressed a couple of issues. First, he acknowledged that he has spoken with Attorney Pare and the Federal Regulations do authorize but he wished to re-express his clients position for the record. Their position is the spirit of the regulation is not being observed by allowing AT&T to go up 15 ft. and jump over 50 ft. to the Crown Tower, when there is no real benefit except for a taller tower.

Otterbach question if there will be improvement of the bandwidth. Atty. Pare stated there will be a slight increase of bandwidth of a 4G.

Frank Hammond questioned Attorney Pare about the increased coverage. Attorney Pare restated the increase for AT&T customers should see a marginal increase in coverage. Frank Hammond thought it would be win, win for AT&T customers and does not believe there will be any visual disturbance from the tower going up.

Smith seconded. Discussion: Billings agreed there should be no visual disturbance of the towers increase height. With no further discussion. A unanimous vote was taken by a show of hands. **Motion Passed.**

Attorney Pare thanked the Board for their patience. Chairman Cohen concurred and thanked Attorney Pare and Attorney Lick for their patience and for coming in for tonight's meeting.

Cohen informed the applicants representative ***"Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall."***

- **Case #20-1-SUBD:** (Continued until August 18, 2020 - Wakefield approval received) Owners: Van & Constance Hertel & Lawrence & Erika Gray of Granite Rd., Ossipee & Leighton Corners Rd., Wakefield. Tax Map: 263 Lot: 015 are requesting a (6) Lot Subdivision on the 112 acres on the Ossipee and Wakefield town line. Representing agent: Steve Oles of Norway Plains (Case Continued from February 25, 2020)

Representing agent: Steve Oles of Norway Plains, Inc, presented on behalf of his client's. A letter of authorization was confirmed received by the secretary. Steve Oles recapped that the proposed 6 lot subdivision is located on Granite Rd. and Leighton Corner Road. The applicant's were required to obtain subdivision approval from the Town of Wakefield first, since the right of way access for the proposed lots of #5 and #6 would be from Leighton Corner Rd. in the Town of Wakefield. Approval has been received and present for approval from Ossipee. They are requesting a (6) Lot Subdivision on the 112 acres. Monuments are currently being set.

Billings inquired if the Town of Wakefield issued a driveway permit for the proposed lots 5 and 6. Oles stated the Town of Wakefield will not issue the driveway permits until the Town of Ossipee approves the subdivision.

A **Motion** by Otterbach for **Case #20-1-SUBD:** Owners: Van & Constance Hertel & Lawrence & Erika Gray of Granite Rd., Ossipee & Leighton Corners Rd., Wakefield. Tax Map: 263 Lot: 015 are Granted Approval for a (6) Lot Subdivision on the 112 acres as presented by Steve Oles of Norway Plains, Inc with the following conditions:

1. NH State Subdivision Approval
2. Receipt and Recording of Mylar with CCRD
3. All Federal, State and Local Regulations shall be followed.

With no further discussion from the Board or the Public. A unanimous vote was taken by a show of hands. **Motion Passed.**

Cohen informed the applicants representative "***Note: The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision. See New Hampshire Revised Statutes Annotated, Chapter 677, available at the Ossipee Town Hall.***"

Master Plan Update: Status quo since Ash Fischbein was not present. Copies of the Master Plan were given to the members who did not have a copy.

Any Other Business Which May Come Before This Meeting:

Chairman Cohen and Bruce Stuart signed plans for Huggins Hospital for distribution. With no other business.

Chairman Cohen called a brief recess at 7:32 PM, until the next applicant arrived.

Chairman Cohen reconvened the meeting/public hearing at 7:36 PM.

- **Case #20-4-SUBD:** Owner – David and Patricia Eldridge of 710 Browns Ridge Rd. Tax Map: 279 Lot: 014 is requesting a 2-Lot Subdivision of a 7-acre parcel. A Wetlands Delineation has been completed.

Billings asked if the application is complete because he did not have his packet. Apparently, there was a mix up at the post office and other members of the board received each other's packet instead of their own.

A **Motion** by Barron for **Case #20-4-SUBD:** Owner – David and Patricia Eldridge of 710 Browns Ridge Rd. Tax Map: 279 Lot: 014 that the application is complete. Otterbach seconded. No Discussion. All others vote in favor. Billings abstained. **Motion passed.**

Jim Rines of White Mountain Survey & Engineering, Inc. presented as the representing agent for David and

Patricia Eldridge of 710 Browns Ridge Rd. Tax Map: 279 Lot: 014 is requesting a 2-Lot Subdivision. It's 7 acres in size and 624.18 ft. of frontage on Brown's Ridge Rd. in the Rural zone. There is an existing house with state approved septic system which will become proposed lot #2. They would like to sell the existing home and build a new home on the proposed Lot #1. Topographic contours and Wetland Delineations have been completed. Lot # 1 will be 4.54 acres in size with 200 ft. of road frontage and Lot #2 will be 2.46 acres in size with 424.18 ft. of road frontage. They are pending state subdivision approval but have received NHDOT Driveway approval. Monuments have been set.

Discussion: Billings questioned the easement for the telephone lines. Rines noted the poles and lines have been removed but the easement still exists. Barron clarified they are still pending State Subdivision approval. Rines concurred.

A **Motion** by Barron for **Case #20-4-SUBD**: Owner – David and Patricia Eldridge of 710 Browns Ridge Rd. Tax Map: 279 Lot: 014 is Granted a Conditional Subdivision Approval pending the following conditions:

1. NH State Subdivision Approval
2. Receipt and Recording of Mylar with CCRD
3. All Federal, State and Local Regulations shall be followed

Chairman Cohen called for discussion. None heard.

Chairman Cohen opened public input. None was heard.

Otterbach seconded. No Discussion. A unanimous vote was taken by a show of hands. **Motion Passed.**

- **Case #20-3-SPR**: Owner – Roger A. Evans of 965 Route 16. Tax Map: 118 Lot: 013 is requesting a Site Plan Review to construct a 35 ft. by 60 ft. garage for a sales office to buy used heavy equipment he will repair for selling.

Chairman Cohen asked for a motion to accept the application as complete.

A **Motion** by Barron for **Case #20-3-SPR**: Owner – Roger A. Evans of 965 Route 16. Tax Map: 118 Lot: 013 to accept the application as complete. Smith seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

Jim Rines of White Mountain Survey & Engineering, Inc. presented as the representing agent for Roger A. Evans of 965 Route 16. Tax Map: 118 Lot: 013 is requesting a Site Plan Review to construct a 35 ft. by 60 ft. garage for a sales office of used heavy equipment and a studio apartment above. The property is zoned rural and have obtained a variance from the ZBA for the use of heavy equipment sales and to be within 10 ft. right of way of Route 16. There is a retention pond to withstand the 50-year storm event and the drainage ditch. The storm water run-off reduces from 18.2 cu. ft. per second to 16.3 cubic ft. per second. Parking will entail 4 spaces for customer parking in the lower gravel area and 2 spaces for the studio apartment. The well and septic disposal system locations were pointed out on the plans. They have received NHDOT Commercial Driveway Permit.

Rines noted per the variance denial letter from the Zoning Officer, it was claimed that this property was within the Water Resource Protection District. Rines did not believe this to be true. After a lot of research and phone calls with Lakes Region Planning Commission it was determined that the Town never received the final maps showing the Water Resource Protection District. Rines downloaded a copy of the map and provided a copy for the ZEO's office and for the Planning Board's meeting room. Rines also provided copies of his research for each Board member.

Rines stated the zoning ordinance states the burden of proof is on the owner of the land and it's the Planning Board's decision to rule.

A **Motion** by Barron to concur with Jim Rines research findings that 965 Route 16 is not in the Water Resource Protection District. Otterbach seconded. No discussion. A unanimous vote was taken by a show

of hands. **Motion passed.**

A **Motion** by Barron for **Case #20-3-SPR**: Owner – Roger A. Evans of 965 Route 16. Tax Map: 118 Lot: 013 to Grant the request for a Site Plan Review to construct a 35 ft. by 60 ft. garage for a sales office of used heavy equipment and repair for selling and All Federal, State and Local Regulations shall be followed. Otterbach seconded. No Discussion. All others vote in favor. Billings abstained. **Motion passed.**

- **Case #20-5-SUBD Amendment**: Owner – 760 White Mountain Highway, LLC c/o William Benedetto, Jr. of 760 Route 16. Tax Map: 250 Lot: 005 is seeking to amend the previously approved subdivision which involves the conversion of four of the proposed 2-bedroom residential units in phase I to be reduced to (2) 3- bedroom units and those two units will be single-family manufactured homes instead of the approved modularly constructed duplexes. Thus, reducing the number of units in phase I from 8-units to 6-units and the total number of bedrooms will reduce from 16 to 14. Also, Requesting a waiver from Section 8.02.1 (c) from depicting topographic contours 200 feet beyond the limits of the property.

A **Motion** by Barron for **Case #20-5-SUBD Amendment**: Owner – 760 White Mountain Highway, LLC c/o William Benedetto, Jr. of 760 Route 16. Tax Map: 250 Lot: 005 to accept the application as complete. Smith seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

Jim Rines of White Mountain Survey & Engineering, Inc. presented as the representing agent for **Case #20-5-SUBD Amendment**: Owner – 760 White Mountain Highway, LLC to convert four of the previously approved 2-bedroom residential duplex units in Phase I to (2) 3- bedroom single-family manufactured homes. COVID virus seemed to impact the buyer's market targeted, so after completing another analysis the decision was made to change from 2-bedroom duplexes to 3-bedroom manufactured homes in the Phase I plan. The ZBA granted a variance on July 14, 2020 to allow a manufactured home subdivision in the condominium development. The option remains that if the market changes construction in future Phases could revert back to the duplexes. These manufactured homes will be placed on a slab foundation and anchored in accordance with the zoning ordinance.

The request for waiver approval of 8.02.1c was not required since it had already been approved through the original subdivision application, according to Billings and Otterbach agreed.

A **Motion** by Otterbach for **Case #20-5-SUBD Amendment**: Owner – 760 White Mountain Highway, LLC c/o William Benedetto, Jr., Member of 760 Route 16. Tax Map: 250 Lot: 005 is Granted a Conditional Subdivision Amendment to convert four of the proposed 2-bedroom residential duplex units in Phase I to (2) 3- bedroom single-family manufactured homes with the following conditions:

1. Receipt & Recording of Mylar Plan
2. All Federal, State and Local Regulations shall be followed.

Smith seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

- **Case #20-2-SPRA**: Owner – J. William Dawson, Jr. of 80 Route 16B. Tax Map: 093 Lot: 015 is requesting an Site Plan Review Amendment as a result of the Planning Board's February 4, 2020 decision to require the land owner to return to the Planning Board due to numerous changes made to the previously reviewed original plan, conditionally approved under Case #18-4-SPR, dated August 21, 2018.

- **Case#18-4-SPR**: (Case Continued until August 18, 2020) John W. Dawson, Jr. of 80 Route 16B. Tax Map: 93 Lot: 015 to discuss the expected completion of the pending Conditional Site Plan Review and to notify that the conditional approval is coming upon the 2 – year expiration date affective August 7, 2020. With the following conditions:

1. Lighting plan added to design plan and
2. Shall comply with All Federal, State, and Local Regulations and Ordinances

A **Motion** by Barron for **Case #20-2-SPRA** and **Case#18-4-SPR** Owner – J. William Dawson, Jr. of 80 Route 16B. Tax Map: 093 Lot: 015 to accept the application as complete. Otterbach seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

Jim Rines of White Mountain Survey & Engineering, Inc. presented as the representing agent for J. William Dawson, Jr. of 80 Route 16B. Tax Map: 093 Lot: 015 is zoned Residential, 3.40 acres in size, 355.14 ft. of frontage on Route 16B and is served by municipal sewer and water. Planning Board granted conditional approval on August 7, 2018 under Case #18-4-SPR with the remaining condition of a lighting plan added to design plan. There was an additional condition of a variance approval required by the ZBA. The ZBA determined on January 8, 2019 under Case #19-2-AA – Administrative Appeal of a variance was not required. Rines noted the existing conditions plan was utilized for White Mountain Survey to survey the property, place accurate markers of the boundaries and a more detailed lay out for the fencing and landscaping. There are 36 parking spaces in total with 4- handicapped spaces in the front of the building and the remaining 32 spaces are located out back behind the building. The lighting is shown on the plan.

Billings stated this case should continue to be held conditionally because Mr. Dawson does not want to repair and install new fencing nor have the berm placed. Discussion ensued over conditions being completed before final approval or conditions subsequent to final approval. The argument was whether or not the owner has the right to make changes without having final approval first. If the owner has subsequent conditions to comply with... a deadline date to comply must be specified. If the conditions are not completed before the deadline date the business will be shutdown via a “Cease & Desist” by the Zoning Officer until such time the condition have been met.

A **Motion** by Otterbach for **Case #20-2-SPRA** and **Case#18-4-SPR** Owner – J. William Dawson, Jr. of 80 Route 16B. Tax Map: 093 Lot: 015 is Granted Final Approval for a Site Plan Review Amendment per the plans submitted by White Mountain Survey & Engineering for the SPRA with **Subsequent Conditions** as follows:

1. The Fence repairs and screening be installed
2. The Berm and plantings be installed
3. Conditions must be completed prior to June 30, 2021 or the SPRA approval is Null & Void
4. All Federal, State, and Local Regulations & Ordinances must be followed.

Barron seconded. No further Discussion. All others vote in favor. Billings abstained. Motion passed.

A lengthy discussion ensued over tracking precedent conditions or subsequent conditions. The Planning Board’s consensus is it’s the responsibility of the Zoning Enforcement Officer to monitor and track all approvals.

Any Other Business Which May Come Before This Meeting:

Rines requested a Zoning Ordinance change to 23.3.2 Expansion of a Non-Conforming Structure taking into account pre-existing status. After a brief discussion Rines is to write up the changes and present it to the Planning Board.

Next Meeting & Public Hearing: **September 1, 2020 @ 7:00 pm**

Adjournment:

A **Motion** by Barron to adjourn. Otterbach seconded. No discussion. A unanimous vote was taken. **Motion passed. Meeting adjourned** at 8:50 PM.

Minutes approved by majority vote of the Board on – _____

Date

Sharon “Sharie” Cohen, Chairman
Ossipee Planning Board