

**OSSIPEE PLANNING BOARD
MEETING MINUTES
June 6, 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, and Steve McConarty (ZEO). Late Arrival: Peter Zavas

Meeting Minutes: the Meeting Minutes from 5/16/2017 were reviewed.

A **Motion** made by Barron to approve the minutes of the 5/16/2017 Planning Board meeting. Martin seconded. No discussion. A unanimous vote was taken.

Financial:

Budget & Revenue Reports:

- Sager & Smith, PLLC – Statement received for Planning Board – Morse (gravel pit) - \$6,874.25

Billings questioned why this account is not showing any interest on the amount. Billings requested Martin to discuss with the Board of Selectmen for explanation.

Unsatisfied Conditions: (continued from previous PB Mtgs) –

Board	Date	Applicant	List of Conditions
PB	11/03/2015	LBWD	Ltr stating manufacturing/light industry only. – Ltr sent to BOS on 5/26/2017 requesting ZEO to look into business.
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

Steve McConarty contacted current occupant of 775 White Mtn Hwy to confirm nature of business. According to the letter submitted by Nick Castel of Rate Liner, the occupant Laconia-Best Warehousing & Distribution Corp. (LBWD) operation of the business is “Ancillary manufacturing and light industry (non hazmat).” Primarily in the warehouse fulfillment and logistics freight business. Also, provides freight uses to/from the site, requiring extensive trailer parking aka spotting and hooking of trailers to/from the dock-level doors.

A **Motion** by Billings to approve the conditions have been met. Barron seconded. No discussion. A unanimous vote was taken.

Informal Discussion:

- **John Pearson:** Is looking at buying 3 lots (20, 21 & 22) on Route 16 across from Deer Cap. One lot had a retail business, another lot has an existing self-storage business and the third lot is vacant. Initially looking to expand the self-storage business. After speaking with the Board, he was advised he would need a Site Plan Review because of change in use with the properties. Pearson is ***considering*** possibly applying for a Lot Merger to combine all 3 lots.

New Business:

- **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

Mark Lucy presented updates from an internal review done over the past 3 weeks and are listed as follows:

1. Certification block has been amended to include the wording from the Site Plan Regulation code 6.04.4 (B).
2. The Deep Sump Catch Basins cannot be on one line because it would cause agitation as the flow went through the pipes and could cause back flow within the oil- water separator catch basin.
3. In response to a question asked at the previous meeting, Drainage structures can be sealed. Tanks are sealed on the outside not on the inside. Reasoning is because petroleum products will eat through the asphalt product or polymer product. Revision to specification details is the exterior is coated with a “bay-oil ebony type water-proofing” on the footnote.
4. Per recommendation of underground storage tank professional, the concrete pad has been extended at the delivery station to go over the oil & water separator.
5. Well location will be 50 ft. off the right of way of Route 16 and 50 ft. off edge of pavement of Route 41 (conceptionally approved by NHDES).

Board Discussion:

Otterbach asked numerous questions and offered suggestions based on his review of the plans, as follows:

1. Bus parking accommodations – Lucy pointed out the areas to accommodate large vehicles.
2. 100 year flood: Rines addressed at the first meeting the site elevation is 438.0 ft. and the 500 year flood levels was around 430.25 ft. but after some calculating 100 year flood, levels are approximately 425 – 428 ft.
3. Fuel Delivery Station, NHDES recommends the station is to have a spill response trained operator. Otterbach suggests making this a requirement not a recommendation as stated on the site plans.
4. Per groundwater protection plan notes, employee is to be trained; who provides the training. Billings noted it's the responsibility of the owner.
5. Per sheet 4 – Erosion & sediment requirements and procedures note (A). Does sheet 4 illustrate this procedure? Lucy stated sheet 4 illustrates one component; each is about 40 pages, which includes all components.
6. Septic design, per sheet 2, the septic system located under the drive thru drive shows 3 man-hole **covers**. Lucy noted there are 4 man-hole covers all meet requirements.
7. Signage type: Billings noted the Planning Board does not control the sign ordinance, which is regulated by the Board of Selectmen. Lucy noted the signage will most likely be on the canopy.

8. Grated and drainage plan on sheet 4 – stone check and relief dams shown in the swales, will they remain after the project is completed. Lucy replied they will be removed once all contributing up sloping areas are stabilized.
9. Site Work Construction details per sheet 6 – what provisions will the owner make to prevent people from parking or driving on the edge and unraveling the gravel edge. Lucy noted outside of a guard rail or curbing, it is human nature for people to park wherever their vehicle fits and/or as close to a building as they want. As a designer, I cannot stop people from parking where they want to.
10. Lighting layout at the fuel delivery station suggest how to improve- St. Jean noted the trucks are lighted.
11. Tank design plans show tanks 4 – 7, questioned what happen to tank 1 – 3. Lucy had no answer for Otterbach.
12. Will there be underground diesel fuel and how many tanks – Lucy noted there will be 2 tanks for diesel fuel.
13. Height of vent pipe north of the storage tank per sheet 3 – Lucy noted approximately 10 ft. per regulation.
14. Lots of speculation of the actual occupant of the building – Billings noted that is not the responsibility of the Planning Board.

Public Input:

Noreen Downs of Madison ask how often the oil & water separators & catch basins would be cleaned, by whom and how it would be disposed of. Lucy replied frequency of cleaning to be determined by the Planning Board in the conditions for approval. Clean Harbors will be the company and disposal is per regulations.

Several questions from the public focus on traffic in the area, a traffic study, site remediation, and consulting an independent review. The Board replied traffic issues and remediation is all under the realm of NHDES and NHDOT. The Planning Board has no authority with respect to traffic patterns it is all under NHDOT.

Rines noted at this time, NHDES indicates the *lot is not contaminated but continues to monitor and the test sites are to remain accessible for further testing.*

Joyce Watson – stated her embarrassment, disapproval and lack of respect from the Board.

Rich F: Inquired why the appeal case of the ZBA granting the Variance in 2015 was not heard. Billings replied the appeal was filed too late after the required 30 day appeal process. Rines stated there was a motion for reconsideration that was filed late but there was never an appeal filed.

Rich F. - wanted to submit a copy of a letter to the secretary, he will be sending to NHDES but he never submitted the letter.

Ron Larrivee questioned if NHDES or a geologist will be on site during construction and will there be any testing of the site prior to construction.

Corey Lane – questioned if Mr. Lucy found 5 changes made during their internal review that clearly indicates an independent site plan review should be done. Lucy noted there were two changes, one addressed the certification on the plans and the second was the piping to the deep sump catch basins to regular catch basins. Lucy considered Ms. Lane's comment very disingenuous. Ms. Lane apologized; she misunderstood Mr. Lucy's earlier statements.

Martin requested a brief recess. Chairman Billings granted the request at 8:19 PM

Chairman Billings reconvened the meeting at 8:21 PM

Billings submitted a list of potential conditions (copied and given to each Board member) and asked Zavos to read the 13 conditions for discussion and to be voted on individually by the Board, as follows:

“Due to this site being under NH DES supervision, I ask the Planning Board to consider making the following motions for conditional approval:”

1. Written proof of who is **responsible** for the clean-up of offsite drinking wells both private and public with proof on the means to do so.

A **Motion** by Billings for condition #1 as read. Martin seconded. Discussion. A unanimous vote was taken.

2. All excavation shall be under the supervision of NHDES with continued testing being done to prove that no new contamination is present.

A **Motion** by Billings for condition #2 as read. Martin seconded. Discussion: Otterbach questioned if known what the duration of NHDES testing will be. Rines noted Ransom Consulting is responsible for the monitoring of this site based on NHDES requirements. A unanimous vote was taken. Billings abstained.

3. All contaminated soils shall be removed from the site and safely disposed of per NHDES regulations.

A **Motion** by Billings for condition #3 as read. Martin seconded. No Discussion. A unanimous vote was taken. Billings abstained.

4. No new construction of any buildings shall begin until the entire site is deemed safe and clean of all contamination.

A **Motion** by Billings for condition #4 as read. Martin seconded. Discussion: Gillette questioned construction of buildings or no new construction. Billings explained construction of any new buildings. Barron questioned wording. A unanimous vote was taken. Billings abstained.

5. Plans that show the prevention of further groundwater contamination.

A **Motion** by Billings for condition #5 as read. Martin seconded. Discussion. A unanimous vote was taken. Billings abstained.

6. Plans for groundwater contamination monitoring shall continue until NHDES reports the site is safe and all drinking wells are clean for a time line as set by NHDES per the Petroleum Fund Regulations or 5 (five) years **whichever** is greater.

A **Motion** by Billings for condition #6 as read. Martin seconded. Discussion. A unanimous vote was taken. Billings abstained.

7. Proof of State approval of the **water well** and septic system.

A **Motion** by Billings for condition #7 as read. Martin seconded. Discussion. A unanimous vote was taken. Billings abstained.

8. All permit/**approvals** of Federal, State and Local shall be in place before any construction begins.

A **Motion** by Billings for condition #8 as read. Martin seconded. Discussion. A unanimous vote was taken. Billings abstained.

9. No salt to be used for snow and ice removal.

A **Motion** by Billings for condition #9 as read. Martin seconded. Discussion. A unanimous vote was taken. Billings abstained.

10. All construction shall be materially of the latest design.

A **Motion** by Billings for condition #10 as read. Martin seconded. Discussion – Barron questioned wording. A unanimous vote was taken. Billings abstained.

11. All Federal, State and Local Regulations **shall be** followed.

A **Motion** by Billings for condition #11 as read. Martin seconded. Discussion wording to reflect “shall be”. A unanimous vote was taken. Billings abstained.

12. Site shall be developed as per site plans approved by this Planning Board.

A **Motion** by Billings for condition #12 as read. Martin seconded. Discussion. A unanimous vote was taken. Billings abstained.

13. Any spills, **requiring notification of NHDES, per NHDES rules, shall result** in the evacuation of the Oil and Water Separator **system and shall be** cleaned semi-annually.

A **Motion** by Billings for condition #13 as read. Martin seconded. Discussion: Gillette suggested rewording. A unanimous vote was taken. Billings abstained.

Discussion:

Joyce questioned noise during the night with fuel delivery trucks idling. Billings noted there a Noise Ordinance to adhere too but it is the owner’s responsibility.

Billings suggested a signature block and layout changes to the plans. After discussion with Lucy an agreement was reached.

Gillette suggested going around the table to allow each Board member voice their opinions. Billings stated and Barron concurred that each Board member has already had a chance to voice their concerns and opinions over the last 5 months.

A **Motion** by Billings to grant a Conditional Approval including the 13 conditions previously approved. Barron seconded.

Board Discussion:

Legendre stated, “***It*** sadden me to see how disrespectful this Board can be sometimes to the public. There’s no excuse for the behavior. People put a lot of time and work into these projects and get frustrated. I want to apologize to the public and ***I*** wanted it noted for the record, my disapproval for the behavior of Alternate – Rick St. Jean, and it should be addressed by this Board.” Billings noted that would need to be dealt with in a non-public session.

Lucy to submit updated site plans for approval.

Billings called for a vote: Legendre, Martin, Barron, Zavas and Billings voted in the affirmative. Gillette and Otterbach abstained. The **Motion for Conditional Approval passed.**

Martin asked why Gillette was abstaining. Gillette commented the engineering firm has ***designed*** probably one of the safest gas stations in the state. But believes it’s a bad idea to put a new gas station on top of the aquifer and is deeply disappointed the ZBA put the Planning Board in this position by approving the variance application in the first place.

Billings noted there is a 30 day appeal process in which “***The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days and time starts tomorrow morning. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision.***”

Ralph Buchanan requested a brief moment before presenting his case. Billings granted and went to address notices.

Notices:

- **Gregory Howard:** email received with questions concerning Site Plan Reviews.
- **Chalmers Hardenbergh:** email received 5/25/2017 with questions concerning Old Depot & Rymes Propane. Email forwarded to PB Chair & Selectmen for response. Martin spoke with John Rymes, who indicated they have no plans at this time.
- **NH Office of Energy & Planning (EOP):** A free two-hour floodplain administrator 101 training workshop for local community officials. Notice will be posted on bulletin boards.
- **Case # 17-4-SPRA:** Ralph Buchanan c/o Buchanan Public Self-Storage. Tax Map: 124 Lot: 10. Located at 851 Route 16, Ossipee is requesting to **Amend** original Site Plan Review to add (4) new storage buildings to existing Public Self-Storage business.

A **Motion** by Billings to accept the application as complete. Barron seconded. Discussion: Gillette questioned why item #4 on the application is considered not applicable and why should Fire department approval be required.

Ralph Buchanan was present to present his case. Was asked if he has spoken with the Fire Chief. Buchanan stated not since the original application in 2004. Buchanan noted these plans are the same as 2004 except he wants to replace the 4 large boat storage buildings with 4 self-storage buildings. The property has 2 in & out driveways. Gillette recommends having the Fire Chief inspect the property just to be on the safe side.

Barron withdrew his second on the original motion. Billings withdrew his motion.

A **Motion** by Gillette to accept a Conditional Approval of the application pending receipt of a letter by the Fire Chief. Barron seconded. No discussion. A unanimous vote was taken.

Buchanan continued his presentation. He would like to construct 4 buildings. One per year over the next 5 years.

Discussion over property dimensions and well locations.

Discussion over the valid duration of a building permit. McConarty noted a permit is good for 1 years, with the option to extend it for 1 year. After which the applicant would go before the ZBA for further 1 year extensions up to 5 years.

A **Motion** by Billings to grant a Conditional Approval Case # 17-4-SPRA pending receipt of a letter by the Fire Chief. Gillette seconded. No discussion. A unanimous vote was taken.

Billings noted there is a 30 day appeal process in which “*The Selectmen, any party to the action or any person directly affected has a right to appeal this decision within 30 days and time starts tomorrow morning. To avoid lapsing of the approval, there should be substantial construction or liability within 2 years of the decision.*”

Old Business:

Projects 2017:

1. Zoning Ordinance Revisions: To review 4.9 & 24.1.1 for changes

McConarty addressed Zoning Ordinance 4.9 and suggested changes. After Board discussion Barron and McConarty are to work on the wording changes by the June 20th Planning Board meeting.

McConarty then addressed Zoning Ordinance 24.1.1 and suggested changes. After Board discussion

McConarty is to work on specific wording changes by the June 20th Planning Board meeting.

2. Revise PB Rules of *Procedure* to address 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.
- Town of Freedom vs. Northgate Settlement of Stipulation agreement.
Billings addressed a document received on 6/06/2017 of a "Settlement Stipulation Agreement" supposedly reached between the Town of Freedom and Northgate Ossipee, LLC over Westward Shores Campground. No specifics were discussed amongst the Board. But references to specific item numbers were addressed.

A **Motion** by Billings to invite Northgate Ossipee, LLC representatives to the next meeting to discuss the agreement. Barron seconded. Discussion ensued of not being comfortable with the agreement.

Otterbach suggested on two occasions while discussing the Proposed Settlement Agreement between Freedom and WWSCG (Northgate), He strongly urged the Chairman to refer this discussion to the Town Attorney.

Chairman Billings replied, "The attorney was the one who sent it to us, so how can we refer it back to him.

Billings asked for Ed Comeau opinion, who questioned if this document is not signed by both parties it should **not** be addressed in an open forum.

Barron withdrew his second on the aforementioned motion. Billings withdrew his motion. Discussion to wait until after the Ossipee Board of Selectmen and legal representation is reviewed and sought.

Discussion:

Zavas asked to address his conduct. "First, I would like to apologize to the Board Members, the Secretary and members of the public for my outburst earlier with Mr. Barron. When I chose to run for this position, I told myself. I would put my personal views aside and try to the best of my abilities to execute the duties of this office with the best interest of the Town and its residents in mind. It is not for any person of this Board elected or otherwise, to use this forum as a platform to hash out **personal** grievances with the public."

Discussion ensued over personal views.

Gillette commented "As a Board we all have personal views that reflect our vote."

Martin noted, "She does not have personal views on how I vote. I vote according to the laws, rules and regulations tell me."

Billings stated, personal views go out the doors when you come into the building.

Gillette stated, "We're using personal views in different ways. My personal views reflect what I think is in the best interest of the Town. My personal views may differ from yours but that's all I'm going to say."

Billings commented the Board is here to represent the residents of Ossipee and personal views, opinions, agendas and disrespectfulness to the public voicing their concerns and towards fellow Board members will

not be tolerated.

Otterbach suggested using the term “professional opinion vs. personal opinion.” But Billings turned *the* idea down by stating, “because a professional is someone who the education and capable to testify in court. We are all voters in this Town, who were elected to do the best they could for this Town, without a personal opinion. If *anyone* on the Board *cannot* comply with that, then I ask for their resignation and we will appoint somebody who can.”

Board discussion ensued until all agreed to be more *understanding and respectful at all times*.

Adjournment:

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

The meeting adjourned at 10:03 p.m.

Next Meeting: June 20, 2017 @ 7:00 pm

Minutes approved by majority vote of the Board on –

Date

Condict (Connie) Billings,
Planning Board Chairman