

**OSSIPEE PLANNING BOARD
MEETING MINUTES
August 1, 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, Peter Zavas, Bob Gillette, Tim Otterbach, and Steve McConarty (ZEO). **Absent:** Rick St. Jean (Alternate)

Non-Public Session: 91 – A: II 3 (l) for legal matter

Billings polled the Board to enter into a non-public session at 7:04 PM pursuant to RSA 91-A: 3, II (l) for **legal** matters. Roll call vote was taken: Billings - Yes, Barron - Yes, Martin - Yes, Legendre - Yes, Zavas - Yes, Gillette - Yes, Otterbach - Yes.

Barron made a motion to adjourn the non-public session at 7:20 PM. Martin seconded. A unanimous vote was taken.

Billings made a motion to return to the public session at 7:223 PM. Barron seconded. A unanimous vote was taken.

Billings made a motion to seal the minutes of the Non-Public Session for legal counseling. A unanimous vote was taken and the minutes are sealed.

Meeting Minutes: the Meeting Minutes from 7/18/2017 were reviewed.

A **Motion** by Billings to approve the minutes of the 7/05/2017 Planning Board meeting. Barron seconded.

Discussion: Martin noted she had one correction. She had misspoken and should be stated as, “A missive by the Selectmen’s Office, informing ...”

McConarty had a clarification to a statement Gillette made at the 7/05/2017 PB Meeting. When Gillette spoke up saying, “he had picked up the CD’s and maps from LRPC. Not sure where they were to go he gave, one set to the Zoning Enforcement Officer and took the other set home because he didn’t think anyone else would be interested in reading GIS maps but he was.” McConarty stated he was not given nor does he have a copy of the CD or maps.

Billings restated the motion of approving the minutes of 7/18/2017 as amended. Barron seconded the motion. No discussion. A unanimous vote was taken.

Financial:

- Sager & Smith, PLLC – June Statement received for Planning Board v. Morse (gravel pit) - \$6,874.25. Discussion amongst the Board and a decision was made to do a site walk visit on August 15th at 6:00 PM prior to the regularly scheduled Planning Board meeting.

Unsatisfied Conditions: Status Quo

Board	Date	Applicant	List of Conditions
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
PB	06/06/2017	Valley Point, LLC	SPR granted pending 13 conditions: Pending
PB	06/20/2017	Ossipee Self-Storage	SPR granted pending remaining conditions: Pending #1: NHDES approval of Waiver
PB	06/20/2017	Ossipee Self-Storage	SPR granted pending remaining conditions: Pending #2: AoT Approval
PB	06/20/2017	Ossipee Self-Storage	SPR granted pending remaining conditions: Pending #3: Ossipee Corner Fire Chief letter

Billings acknowledged there have been no changes to the unsatisfied conditions list.

New Business:

Case # 17 – 6 – SPR: Hobbs Tavern Events, owner Ash Fischbein c/o KJN One, LLC. 3 Covered Bridge Road. Tax Map: 008 Lot: 022 is seeking a Site Plan Review to hold Outdoor Events ranging from musical events, art shows, outdoor plays, movies as well as provide local non-profits with another venue of operation.

Ash Fischbein was present to present his case. Billings read the application to the Board and proceeded to inform Fischbein the items missing from his application.

Billings noted the application has to be reviewed and accepted before moving forward according to the law. Billings noted the following items missing from the application:

1. Deed for 3 Covered Bridge Road
2. Names are inconsistent on application – Hobbs Tavern Events vs. Hobbs Brewing
3. Waivers not numbered appropriately for identification
4. Map/drawing not detailed or showing measurements or specifications
5. Permit to Operate a Place of Assembly – expired on 10/17/2016
6. Parking Arrangement with total number of cars allowed - in writing
7. Uses – some uses are not allowed
8. Definition of uses
9. Lighting Plan near River details

Gillette questioned this application procedure being different from others that have come before the Board. Also, utilization of the Outdoor Event Guidelines for this application. Billings explained why this property required a Site Plan Review vs. an Amendment by stating:

1. Prior applications were in Commercial District vs. this being in Village District
2. Billings noted each application has to be individually processed based on the information provided.

Legendre questioned why it's not allowed when the Zoning Ordinance states Amusement Facilities is "Permitted" in the Village District.

Billings disagreed and asked Legendre to read ZO 35.2 (a) Amusement Facilities definitions.

Which states: *35.2 COMMERCIAL USES a) Amusement Facility - Any commercial use which offers for hire to the general public, access to structures, vehicles, mechanical or electrical contrivances or other facilities which are intended primarily to provide entertainment, amusement, or recreation, and in which the patron is engaged on the premises as an active participant rather than as a spectator, and where such uses occupy in excess of twenty percent (20%) of the total interior or exterior public area.*

The Board held a lengthy discussion over the interpretation of "facility, participant vs. spectator, and commercial vs. village district permitted uses."

A Motion by Gillette to accept the application for discussion. Zavas seconded. No Board discussion at this time. A unanimous vote was taken.

Ash Fischbein was present to present his plans to the Board. Fischbein acknowledged the property is in the Village district and has many permitted uses. Fischbein spoke how he would like to bring a variety of events such as art exhibits, concerts, food festivals, movies in the park, and the primary goal is to provide something to the Town. Fischbein continued saying, it goes without saying we have invested a lot of time, resources and money trying to bring back life and traditions to this area of Ossiipee. This area gives millions of people a reason to drive through this Town but we hardly give them a reason to stop and stay in this Town.

Fischbein read from the Ossiipee Zoning Ordinance – Page 79, "*ARTICLE XXXV – DESCRIPTION OF PERMITTED USES The descriptions listed below are not to be interpreted as detailed definitions but rather as extensions, restrictions or examples of the permitted uses listed in Table 1. Permitted uses in the Roadside Commercial and Corridor Districts are additionally regulated according to vehicle trip generation as indicated in Footnotes (1) and (2) of Table 1.*" Fischbein understands that to read not specifically, what is permitted verses not permitted. But it's essentially a grey area, which we previously discussed.

Fischbein noted there is no permanent structure being built on this property. Everything is non-permanent, impervious, movable and temporary. Fischbein referenced Site Plan Review Regulation:

- 8.02.2. Open Space Development

The Applicant shall comply with relevant provisions of the Ossiipee Zoning Ordinance.

He feels he is complying with the Zoning Ordinances.

Billings asked Rick Sager, Attorney for a legal opinion on 35.2 (a) Amusement Facility because under 35.2 (a) participant events are only allowed.

Sager focused on Fischbein's application list of events to determine if it's considered a participant event or a spectator event. Of the 18 listed events, five are considered a spectator event and is not allowed. The five events are concerts, movie night/film screenings, plays, art exhibits/shows, and car shows. Sager suggested for Fischbein to provide the Board with a description for each of the events, base that against the description of 35.2 (a), remove the ones that do not qualify and move forward from there.

Zavas asked Fischbein what type of event did the Board of Selectmen approved for him last year. Fischbein replied outdoor music event to be held August 26, 2016. But the event never took place because it rained. Billings questioned why his Permit to Operate a Place of Assembly was issued 10/14/2016 and expired on 10/17/2016. Fischbein stated he would need to follow up on that because he may have submitted the wrong one because he had three from last year. Fischbein informed the Board because there is no structure on that property, he does not need the Fire Chief to issue a permit because with no structure the Fire Chief has no jurisdiction. Zavas asked if Hobbs participates in other area Beerfest. Fischbein replied yes, that are usually at them each weekend.

Lindsay Lord asked a couple of questions: 1. if the house on the 3 Covered Bridge Rd was included in the Site Plan application. Billings and Fischbein replied no. 2. Of the events listed are those the only ones allowed or is it just a sample. Billings replied what the Board approves is the only events allowed unless Fischbein comes before the Board for an amended site plan review.

Joe Deighan explained what Fischbein is trying to accomplish when compare to other places that hold outdoor events.

Fischbein explained the parking with the Board. Lighting is to consist of downward low cast LED lighting. A lengthy discussion between Fischbein and Billings over being treated equally and fairly ensued.

Billings asked Fischbein which application phase he was in. Billings explained each of the three phases and Fischbein replied phase I. Fischbein asked if this application can move forward.

A Motion by Zavas to accept the application with conditions. Barron seconded. No discussion: A unanimous vote was taken by show of hands.

Sager requested to leave the meeting.

Martin requested a five minute recess at 8:43 PM. Billings granted the request.

Billings reconvened the meeting at 8:52 PM.

Fischbein and the Board went through each requested waiver and determined whether it is truly a waiver or if it is not applicable.

1. Deed for 3 Covered Bridge Road
2. Names are inconsistent on application – Hobbs Tavern Events vs. Hobbs Brewing
3. Waivers not numbered appropriately for identification
4. Plans Map/drawing detailed and showing measurements or specifications

5. Fire Chief Permit to Operate a Place of Assembly – expired on 10/17/2016
6. Parking Arrangement - in writing (lot size needed for every 50 sq. ft. = 1 parking space accessible to public.
7. Uses – some uses are not allowed
8. Definition of uses
9. Lighting Plan near River details
10. EMS accessibility
11. ETOH Permits
12. Letter/Lease between KJN, Inc. and Hobb's for parking at Hobb's (not to be signed by Ash Fischbein)
13. Research Erosion and sediment controls, grading not to exceed 2:1, wetland protection.

Billings opened discussion to the public:

Terry Bryant, Covered Bridge Rd. questioned if this was an informal discussion to go over the material and provide Fischbein with a list of documents needed for the next hearing. Billings replied yes.

A **Motion** by Barron to continue case # 17-6-SPR until September 5, 2017 Planning Board meeting. Otterbach seconded. No discussion. A unanimous vote taken by show of hands.

Old Business:

Projects 2017: (Discussions continued until 9/5/2017)

1. Zoning Ordinance Revisions: McConarty noted no wording changes are ready for ordinances 4.9 & 24.1.1 at this time.
2. Revision to PB Rules of Procedures: were reviewed and updates noted by the secretary to provide a revised draft for the next meeting.
3. Site Plan Regulations: Billings got clarification from Jennifer at FEMA, the Town of specific requirements to add to Section 8.03.2 not 8.03.3.
4. Subdivision Regulations: per FEMA requirements to add to Section 10.04.

Notices and Publication:

ZBA Cases: Billings read announcements to the Board.

- **Case # 17-4-V:** Alexander Bakman, 12 Old Broad Bay Rd. 1. Tax Map: 35 Lot: 15 – application for a Variance was rejected to keep a 20' x 20' metal carport, built after the fact because the application did not show material differences from two previous applications for a garage.

Any Other Business Which May Come Before This Meeting

McConarty addressed the upcoming: **Case # 17-7-SPR:** Melvin Village Marina, Inc., owner Matt Young, 801 Route 16. Tax Map: 250 Lot: 007 is seeking a SPR to remove a 20 X 40 ft. garage and replace with a 50

X 50 ft. garage in same location. McConarty felt this applicant did not require a full Site Plan Review because he already has one for the property. Billings read Site Plan Review Regulation 6.05.03 F:

F. Amendment of Approval

The Board shall have the authority to modify or amend its approval of a site plan on application of the Applicant or his/her agent. Any site plan coming before the Board for modification or amendment shall require a noticed hearing in accordance with Sections 6.08 and 6.09 of this Regulation. Board discussion ensued. Legendre inquired if Melvin Village Marina could be issued a waiver under RSA 674:44. The decided to have Melvin Village Marina apply for a Site Plan Review – Amendment. McConarty agreed.

Adjournment:

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

The meeting adjourned at 9:41p.m.

Next Meeting: August 15, 2017 @ 7:00 pm

Minutes approved by majority vote of the Board on – _____

Date

Condict (Connie) Billings,
Planning Board Chairman

Or

Roy Barron,
Planning Board Vice – Chairman
(In the absence of the Chairman)