**TAMWORTH PLANNING BOARD**

 **Minutes (via Zoom)**

**April 29, 2020**

**6:00 P.M.**

1). Call Meeting to Order: The meeting was called to order at 6:07 pm by Sheldon Perry.

Roll call:

Sheldon Perry – present

Nicole Maher-Whiteside – present

Andy Fisher – present

Kathi Padgett – present

Pat Farley – present

Aaron Ricker – Selectboard Representative – present

Betsy Loughran – alternate – present

Others present: Randall Dearborn, Loralie Gerard, Richard Merritt, Melody Bergman, Rhonda Damon, Ed Comeau

Betsy Loughran is seated.

2). Approval of Minutes:

• 2/26/20 Meeting – Kathi made a motion to approve, Pat seconded. Kathi noted the following correction: Pg 3 – change as to was before initially - Roll call Andy made a motion to approve the minutes as amended. Seconded by Kathi.

Roll call:

Nicole Maher-Whiteside – yes

Andy Fisher- yes

Betsy Loughran – abstain

Kathi Padgett – yes

Pat Farley – yes

Aaron Ricker - abstain

• 4/13/20 Work Session - made a motion to approve, seconded. Pat made a motion to approve, Pat seconded.

Roll call:

Nicole Maher-Whiteside – yes

Andy Fisher- yes

Betsy Loughran – abstain

Kathi Padgett – abstain

Pat Farley – yes

Aaron Ricker - abstain

3). Officer and Committee Reports:

• Treasurer’s Report – Eric – not here, no report

• Secretary’s Report – Andy – we have a boundary line adjustment hearing, and a preliminary conceptual review for a subdivision. Sheldon spoke about correspondence received from NHDES. Wetlands approval was received for Club Motor Sports. Another was for a property on Ossipee Mountain Highway. There was a large application for a new road by Club Motor Sports. No action is required. Also, a large alteration of terrain permit from Alvin J Coleman on Maple Road, for a large gravel excavation. We have not received a gravel permit application. Loralie spoke about this, the town will be getting an Alteration of Terrain Permit, and an application will be submitted.

• Rep to Economic Development Commission – Pat – 4th of July Parade, Fireworks, and Family Day are cancelled, as well as the Street Fair. There will be two forums- one about broadband (100 children do not have any or adequate broadband) and one regarding starting an LLC. They offered to return their entire budget except for $500.

• Lakes Regional Planning Commission – Pat – The Annual dinner was cancelled. There will be a

Commissioners Meeting at the end of May.

• Selectmen’s Rep – Aaron – no report

• Rep to Conservation Commission –Eric – no report

• CIP – Kathi – first meeting was last night. Department assignments were done. Given the state

of affairs we do not know what projects will move forward.

• Education – Sheldon – nothing to report

Aaron Ricker was having internet difficulties and has left the meeting.

4). Public Hearings

**Melody Bergman/176 Powerline Road Realty Trust**

**Boundary Line Adjustment**

**Map214/Lots 186 & 215**

**140 Eldridge Lane**

The hearing was opened at 6:27 pm. Sheldon read the rules for the hearing. Loralie Gerard is the agent for this application. Rick and Melody are present.

Andy reports that the application has been reviewed and he made a motion to accept the application as complete, Nicole seconded.

Roll call:

Nicole Maher-Whiteside – yes

Andy Fisher- yes

Betsy Loughran – yes

Kathi Padgett – yes

Pat Farley – yes

Loralie gave a description of the application. This plan will make a non-conforming lot to become more conforming. 6/100ths of an acre will be added to Melody’s property. A small reduction will be made to Rick’s lot.

The lot will become squared off in the back. Sheldon mentioned needing the location of the well radius and the 4K septic area that are not shown on the map. Loralie will add them, if a condition is added to the approval. She has the information, a large portion of the well radius will be off the site, as pre-1985 records show. The Board would like her to show what is already there. The Board is fine with not showing the 4K area. Rick Merritt has questions – will the plan show a revision date? The deed has already been drawn. Andy informed him that the recorded plan will be used. His other question is in regards to the threshold by which the Town does not require payment for removal from current use. Sheldon stated that this will need to go through the Selectmen. Loralie – spoke regarding the well and the 4K radius. She marked them as non applicable on the checklist. She feels that they should not be available as N/A if they are required. The well and radius can be a condition on the approval. The hearing was closed at 6:43 pm.

Waivers: Questions about waivers will be addressed after the waivers are read.

The waivers were read and understood.

VI.F.3.c

VI.F.3.d

VI.F.4.a

VI.F.7.b

VI.F.9.c

VI.F.11.a

VI.F.12.a

VI.G.2.a

Andy made a motion to approve the waivers, Nicole seconded.

Roll call:

Nicole Maher-Whiteside – yes

Andy Fisher- yes

Betsy Loughran – yes

Kathi Padgett – yes

Pat Farley – yes

All waivers are approved. Kathi made a motion to approve the application with the condition that the well and well radius and approximate location of the septic will be shown on the plat. Nicole seconded. Sheldon added a condition that the mylar be received within 60 days unless an extension is approved. Kathi accepted the amendment, Nicole seconded.

Motion withdrawn. Kathi made a motion to approve the application with the following conditions: plat show the 75 ft well radius, approximate location of the septic 4k to be shown and mylar received within 60 days unless an extension is approved. Nicole seconded.

Roll call:

Nicole Maher-Whiteside – yes

Andy Fisher- yes

Betsy Loughran – yes

Kathi Padgett – yes

Pat Farley – yes

Loralie will email Sheldon when the plat copies and the mylar are ready and he will meet her on the porch of the Town Office building.

5). Old/ New Business

• Vote on Randall Dearborn as Alternate

Roll call:

Nicole Maher-Whiteside – yes

Andy Fisher- yes

Betsy Loughran – yes

Kathi Padgett – yes

Pat Farley – yes

Sheldon will check at the town office to see if there are binders for Randall and Betsy.

**• Browne/Verplank/Greenough Trusts Subdivision Preliminary Conceptual Consultation**

**Map 401/Lots 24 & 24.1**

Loralie Gerard presented the consultation. No map is shown for a preliminary conceptual. This is on Washington Hill Road and Savary Road. Map 401 Lot 24.1 and Lot 24, as well as Lot 25 to make a boundary line agreement, adjustment and to create 3 lots. There are view easements, conservations easements, and a path that will be shown on the plan. She will ask for a waiver on notification fees for one mailing on both projects together. Andy feels that both parts could be placed on one application. The project will be avoiding a lot merger. Sheldon asks if it would make it simpler to do a lot merger first. The Town line was moved in 1909. This made some of their land in Madison. Madison will not agree to a concurrent meeting. They would like to see a condition on the application that they get to review the minutes and the plan presented to the Tamworth Planning Board, with a condition that the approval is conditional on the conditions Tamworth applies. There is also concern about where to put the 30’ walking trail. In 1909 the “fence watchers” moved the Town line further into Tamworth. The Town of Madison has to be part of the approval process. Madison wants to read the minutes and sign the mylar. This Board will only approve to the existing town line but then Madison would have to vote on their part. Loralie feels that they have to be done simultaneously. There is an RSA that she can petition both towns but Madison has not agreed to that. The owners do not pay taxes in Madison. The Board consensus is that we can only deal with what is in Tamworth. Loralie is asking that Tamworth allow Madison to piggyback on the approval. Loralie will seek counsel to be sure that she is representing her clients properly. Sheldon recommends that the next time it comes before the Board it might be a design review.

**• Roberts Living Trust Subdivision** - Waiver Request & Letter- Judith Reardon and Whipple

 Roberts joined by phone. At December 18, 2019 meeting there was an application presented.

We hired a consultant who recommended that the application did meet the requirements of the

subdivision regulations. It was approved with conditions – 3 State approvals needed, Fire Chief

State Code approval, and mylar receipt within 60 days. The engineers did not request the

extension. Performance guarantee was omitted. We did not make that a condition of our

 approval, Sheldon has made contacts about this. That is the issue that is here now. Kathi would

like to know if the performance bond is in the requirements. Section 10a states that a

performance guarantee is required as a condition of approval. A waiver is being offered on this

condition and an alternate is being offered. Ms. Reardon states that it will cost approximately

$24,000 over the course of the project. There are some alternatives to a performance bond,

 according to our Town Attorney. One of these alternatives are to not sign the mylar until all the

 requirements in the application are completed (determined by an independent engineer). The

Planning Board could then sign the mylar. No lots could be sold before the recording of that

deed. This is what Ms. Reardon has asked for. Andy made a motion that the conditions have not

been met, to return the application, and once the road is complete we could approve the

subdivision. Ms. Reardon feels that they town would not have to deal with erosion on a private

tract of land, and also that Eversource, etc. may want to see some level of commitment.

Whipple states that they can put power in without the approvals. From the owner’s point of

view, there is no guarantee that a future board will grant the approval.

Sheldon feels that Ms. Reardon’s letter is an alternative form of a performance bond. Nicole

feels that it is not unreasonable to consider an alternative.

Sheldon stated that the waivers are for having an alternate to a performance bond. He read the

waiver request to the Board. Section 7 J 1&2, 10A, 7K, 7F.

Section 7J 1&2 – when to submit waiver, and waiver will be considered after the public hearing

is closed but before the application is voted on. The waiver is being requested because the

process has been delayed. This is a timing process waiver request. Nicole made a motion to

grant, Andy seconded.

 Roll call:

Nicole Maher-Whiteside – yes

Andy Fisher- yes

Betsy Loughran – yes

Kathi Padgett – yes

Pat Farley – yes

 Section 7K – regards conditional approvals. If not met within one year, the conditional approval expires. A waiver is requested because they would like to have more than one year to complete. They would like it to last for 5 years. Section 10A is in regards the performance bond requirement. Sheldon made a motion to approve waivers of Section 7K and 10A due to the cost of the performance bond requirement being prohibitively expensive to the applicant, on the condition that this requirement would be met by the alternative proposed in sections 1,2,3, and 4 in Judith Reardon’s letter to the Planning Board, dated April 20, 2020 and that this letter be recorded at the Carroll County Registry of Deeds along with the mylar after all the conditions of approval have been met. Nicole seconded.

Andy spoke about the reasons for requiring a performance bond. Though not setting a precedent, we need to be aware that it could happen again in the future. The insurance company sets the amount, based on 115% of what the applicant thinks it will cost. The Planning Board has the right to verify that the amount is enough. Betsy feels that the Town is better protected by not allowing any sales until the work is completed. Kathi called the question.

Roll call

Nicole Maher-Whiteside - yes

Andy Fisher - no

Betsy Loughran - yes

Kathi Padgett - no

Pat Farley – no

Waiver denied 2-3-0

* Section 7F – Sheldon made a motion to waive the condition as proposed during the December 18, 2019 Planning Board meeting requiring the mylar be submitted within 60 days unless an extension is requested as not being injurious to the application’s final approval and that this amendment is not considered substantial.

Sheldon withdrew this motion.

This will allow the mylar to be submitted with the plans and the application can be recorded. In effect, this is requesting an extension of the time to get the mylar to the Planning Board.

The performance bond and the mylar being submitted will allow the application to be approved.

Andy made a motion that we extend the conditional approval of this application for 90 days in order to allow for the applicant to provide a mylar and the performance bond as required. Nicole seconded.

Roll call:

Nicole Maher-Whiteside – yes

Andy Fisher- yes

Betsy Loughran – yes

Kathi Padgett – yes

Pat Farley – yes

Pat commented that her reason for voting no above was that she was not comfortable with this becoming a precedent.

6). Action Items

• May Work Session - Pat made a motion that we not have a work session in May, Andy seconded. The regular meeting is on May 27.

7). Adjournment – Betsy Loughran made a motion to adjourn at 8:51 pm, Andy Fisher seconded.

Roll call:

Nicole Maher-Whiteside – yes

Andy Fisher- yes

Betsy Loughran – yes

Kathi Padgett – yes

Pat Farley – yes

Respectfully submitted,

Melissa Donaldson

Recording Secretary