

Town of Tamworth

Planning Board

*** WORK SESSION MINUTES ***

October 13, 2010

Meeting called to order at 7:00 pm.

Members Present: Dom Bergen Chairman, David Little, Steve Gray, Skip Nason, Bob Abraham, Selectmen's Rep, Becca Boyden, Nicole Maher-Whiteside (7:05 pm)

Members Absent:

Alternates Present: Tom Peters, Peter Vanderlaan, Pat Farley

Alternates Absent: David Cluff

Pat Farley was seated for Nicole.

Ossipee Valley Snowmobile Club – Elliott SUP Public Hearing Map 415 lot 15 Turkey Street

David Little motioned to accept the sup application as complete. Pat seconded. APPROVED

Dom reviewed the rules of conduct for a public hearing. The hearing was opened at 7:02 pm. David Bowles presented the application, which requires a waiver for building bridges on a trail from Bartons Yamaha to White Lake. The conservation commission has discussed the application and has done a site walk. They are in agreement with granting the waiver request. The hearing was closed at 7:07 pm. Skip made a motion to grant the waiver. Bob seconded. APPROVED

Ossipee Valley Snowmobile Club – Pennell SUP Public Hearing Map 415 lot 19 Turkey Street

Steve motioned to accept the application as complete. Pat seconded. APPROVED

The hearing was opened at 7:08 pm. This is another waiver request for the trail mentioned above. The conservation commission has discussed the application and has done a site walk. They are in agreement with granting the waiver request. The hearing was closed at 7:10 pm. Becca made a motion to grant the waiver. Skip seconded. APPROVED

Katharine Thompson SUP Public Hearing Map 203 lot 68 Mill Street South Tamworth

The hearing was opened at 7:11 pm. This application is a request for a waiver for placing a septic system within the 125' buffer of Cold Brook. This application has previously been accepted as complete. The Conservation Commission has reviewed and voted to approve, with a consideration of turning the system by 90 degrees, which has been referred to the State for their decision. The hearing was closed at 7:14 pm. Skip made a motion to grant the waiver. Pat seconded, APPROVED

Nicole was seated at 7:15 pm.

Earth Excavation Regulation Public Hearing, continued

The hearing was continued at 7:20 pm. All previous corrections to the draft have been voted on and approved. Paul King sent a letter containing additional corrections he would like to see made to the draft. David Little notes that there should be a further change to section XI A - Performance Guarantee. Wording was previously removed. David feels that it should be returned, to read as follows:

- A. Before issuing any permit, or the removal of topsoil or other overburden material from a new area within an existing excavation site, the applicant shall submit to the Planning Board a bond with sufficient surety as determined by the Tamworth Planning Board in no case shall the amount be less than the recommended cost estimate, prepared by a professional civil engineer licensed in New Hampshire, hired by the Town and paid for by the property owner. The purposes of the bond are to guarantee reclamation of the area, compliance with the permit, and to defray costs of any inspections. Off-site improvements for potential damage of Town streets or facilities caused by the transportation of earth materials shall be discussed at this stage.

David made a motion to change XI A to read as written above. Becca seconded. APPROVED

Paul King feels that the property owner should hire the engineer of their choice, to be checked by the Town engineer if desired. He would also like to see "sufficient surety" changed to "bond or other surety" Nicole made a motion to change "sufficient surety" to "bond or other surety". Bob seconded. APPROVED

Becca feels that it would be costly to the Town to have the Town engineer do a secondary review. It is expected that the applicant would pay all expenses for the Town engineer. David is concerned about how this would work in the event of abandoned property. A motion is made by Steve to change the wording to read as follows: "...civil engineer licensed in New Hampshire, hired by the property owner, checked by the Town engineer if desired, at the landowner's expense. Skip seconded. APPROVED

Paul also has concerns with Section VIII B 12. He feels that the seasonal water table is unreasonable and should be deleted.

Bruce Robinson states that septic system requirements are 2.5 feet above seasonal water table, and that this is a more reasonable number.

Chris Conrod feels that this information may be outdated, and that the requirement should depend on the use after excavation. Becca is in favor of 2.5 feet. Bob made a motion to change Section XIII B 12 to 2 feet 6 inches above seasonal water table. Skip seconded. APPROVED

The hearing was closed at 7:49 pm.

David made a motion to adopt the Earth Excavation Regulation as amended. Becca seconded. APPROVED

David states that he has drafted the application to accompany the regulation, that will need to be amended to reflect these changes. He will make the corrections and present it at the next meeting of the Planning Board.

GROUNDWATER PROTECTION ORDINANCE PUBLIC HEARING

The hearing was opened at 7:50 pm.

Ned Beecher reviews changes that were made, the only substantive change being in Section J of Article 8.

Bob has a concern with Section 8B, The Planning Board feels that this was addressed by the RSA.

Chris Conrod questions whether the 5 gallon container line applies to homeowners. Private homeowners are exempt. He feels that this ordinance is long overdue. He has researched and found that secondary containment tray expense is approximately \$50.

Ned Beecher states that the current NH regulations have a 5 gallon standard, and that this has to be followed.

Kara from GMCG states that excluded substances are regulated by other State laws.

Ned states again that this is RSA language.

Sheldon Perry feels that environmental issues have become prominent with his clients. Customers are requesting projects that are as green as possible, with waterborne finishes, etc. He feels that this ordinance would not be a burden, but rather a way to be more competitive in the marketplace and meet the future needs of clients.

Andrea Kennett spoke on behalf of Kate Thompson, who feels that it is important to not leave the aquifer safety to good will and common sense. She is in support of this ordinance.

Paul King states that Section 3 -1 has changed, and this is not the version that was accepted at the 9/22 meeting.

David states that the ordinance will be reposted and re-advertised for another public hearing.

Paul has a concern about the blasting of bedrock statement. He feels that there is no impact on water, and should not have a requirement for stormwater management and pollution prevention plan. Ned feels that the scale of the blasting could have impacts, fracturing, etc. This language is found in the state RSA. Scott Aspinall feels that blasting is usually done to improve conditions for runoff, etc. He feels that it would be reasonable to have a square footage cutoff. Paul still feels that it should be removed as it should have little or no impact, on stormwater runoff. Becca feels that it could have an impact. Paul feels that it is a groundwater ordinance and should not include stormwater. Chris would like to know if there is bedrock under a stratified drift aquifer. There is not, however, it is found in the well head protection areas. Kathy Bunker states that this ordinance came from a model ordinance drafted by DES. The Conservation Commission will research the bedrock issue and get information for the next public hearing. Ned found a fact sheet from DES, which states that blasting could have the following impacts on an aquifer: possible contamination by the materials used in the blasting, agitation of subsurface releases sediment into the groundwater. There is mention of a 5000 cubic yard cutoff. Ned would like to work out a balance, if this clause is included at all.

Lianne Prentice supports the ordinance, as clean water supplies are essential too food production. The Community School can not operate if there is contamination in its water

Paul King feels that the Planning Board should be discouraged from scheduling another public hearing until the corrections have been made, then vote to post again.

David would like to close the hearing and have the Planning Board vote to post the revised document.

Scott A feels that skid tanks are less dangerous than 5 gallon containers. Ned states that agriculture and forestry are exempted. Underground tanks are state regulated.

Tom Peters comments on groundwater extraction. Ordinances for this are being prepared on State and regional levels. Pat F. adds that 95% of the State's water is not regulated.

Ruth Timchak speaks in support of the ordinance.

Scott questions enforcement of the ordinance. David cites RSA 674:16 as enabling inspections by the Selectmen. Ned states that the intent of this ordinance is educational. Kathy states that this ordinance gives the town the ability to act locally, rather than depending on DES. John Mersfelder reinforced the comments about this ordinance being educational, and feels that this is a natural progression. Sheldon Perry comments that businesses like to know up front about the requirements of a certain area. He feels that this will be helpful in promoting environmentally friendly businesses as well as residences.

The hearing was closed at 8:54 pm.

Becca made a motion to send the ordinance back to the Conservation Commission for research on activities involving blasting bedrock, and for presentation of a selection of options for the wording. Skip seconded. APPROVED

Ned reviewed the proposed changes with the Planning Board, mainly how to treat the blasting concerns. The container size will not be changing. A revised draft will be presented on 10/27/10.

TAMWORTH INNOVATIVE ZONING ORDINANCE

Nicole presented the background and process of the draft Tamworth Innovative Zoning Ordinance. She states that a noise section is missing from the document, as consensus could not be reached. Bob states that Section 5 is a separate section that applies only to Conservation Subdivision. Lianne states there are few places in NH that have performance standards only, and that this ordinance was designed to be unique, as is Tamworth. Scott A is assured that legal review has been sought, and will continue to be part of this process. Geoffrey Cunningham is concerned that performance standards are not able to protect the rural community as zoning could. John Mersfelder feels that with no regulation, Geoffrey's concerns will be realized. 45% of Tamworth is currently in conservation. Jack Waldron has questions about the light pollution section.

David made a motion for the Planning Board to post this version, dated 10/12/10 with no revisions. Becca seconded.

Discussion ensued. Paul King feels that the Planning Board should take this home and study it intensively. He feels it should be reviewed as a Board at a public meeting, then a revised copy posted for **public hearing. Becca feels that in interest of moving forward, this version should be posted. Skip, Dom** and Steve just received the newest copy today. One article was added and items were renumbered. Pat F. states that there is an issue with the re-numbering. Steve is concerned about the effective date if this is posted. Paul does not like the process used, Ned is in agreement with either process.

The discussion ended, and a vote was taken on the motion to post this version. The motion was APPROVED, with one opposed, Bob Abraham. A public hearing was scheduled for October 27, 2010 at the Town office, at 7 pm.

Town counsel has requested that the planning board schedule a hearing on the CMI remand. This has been scheduled for December 8th, at 7 pm. Abutters will be noticed, and this will be posted as a public hearing.

Bob asked a question about the process for this public hearing. The hearing will be opened, there will be planning board discussion, and then it will be opened to public comment.

Pat Farley states that she was offended by the public comments about the Planning Board and their process with the Earth Excavation Ordinance. Paul King apologized for his comments.

Bob made a motion to adjourn at 10:02 pm. Nicole seconded. APPROVED

Respectfully submitted,

Melissa Donaldson

Planning Board clerk