

**TOWN OF WOLFEBORO
PLANNING BOARD
September 18, 2018
MINUTES**

Members Present: Kathy Barnard, Chairman, Brad Harriman, Selectmen's Representative, Mike Hodder, Peter Goodwin, Susan Repplier, Members.

Members Absent: Vaune Dugan, Vice-Chairman, Dave Alessandroni, Tom Brown, Alternates, John Thurston, Member.

Staff Present: Matt Sullivan, Director of Planning and Development, Cathleen LaPierre, Recording Secretary.

Chairman Barnard opened the meeting at 7:00 PM at the Wolfeboro Town Hall Great Hall.

I. Introduction of Board Members

Chairman Barnard introduced the members of the Planning Board and Staff.

II. Public Comment

III. Scheduled Appointments / Public Hearings / Public Forum

16 North Main Street, LLC

Agent: Bryan D. Berlind, LLC (Land Tech)

Site Plan Review

Tax Map #217-101, Case #2018-12

Kathy Barnard stated the case was re-noticed and asked for a brief presentation and read the item into the record.

Bryan Berlind stated he is representing the Yum Yum shop and the manager of the Yum Yum Shop, Peter Kelly was present. Two main items to be discussed as changes are 1. Revision to the previously improved site plan that includes the parking/traffic layout and solid waste plan and 2. Continuation of reviewing and accepting the 2nd application as complete for the water front patio. The first item, the parking/traffic layout involves a new two-way traffic flow utilized by the condo and Yum Yum shop which increases safety and allows for more parking (7 spaces). Solid waste has changed from having it in an enclosure within the building; that space is a walk-in freezer. The waste is now located outside the building and removed daily or every other day as needed. Secondly, the Yum Yum shop is asking the Board to accept the waterfront patio as complete for review.

Peter Goodwin asked for clarification, how the cars come in and get to #7.

Bryan Berlind stated the condo has granted a 9 ft. easement to the Yum Yum shop allowing individuals to enter. To exit they would have the 22 ft. isle behind them, but the easement provides another 9 ft. to back into where they can then leave.

Peter Goodwin noted they don't have to go into the condo property when driving.

Bryan Berlind confirmed that driveway will remain blocked.

Matt Sullivan asked for confirmation it will not block the easement itself.

Bryan Berlind confirmed as the easement stops at the lot line.

Kathy Barnard questioned it being blocked for the easement to work.

Matt Sullivan stated the 9 ft. easement is present abutting the lot line, it would have to remain open for egress from the condo.

Bryan Berlind stated it's a shared parking lot.

Matt Sullivan questioned a boundary line that showed a gap between what he thought was the right of way and the condo property and asked Bryan Berlind if that line was misplaced.

Bryan Berlind replied it's a stray line that has been removed.

Matt Sullivan confirmed the condo property runs all the way to the right of way on North Main Street.

Bryan Berlind replied correct.

Matt Sullivan noted the need to add low bush blueberries on the patio side to stabilize the shoreline and asked the Board if they were comfortable with the loading area as identified on the plan.

Mike Hodder replied he had no problems with that and asked if there was a plan to screen the dumpsters.

Bryan Berlind stated they are already screened.

Mike Hodder asked if they are visible from the lake.

Bryan Berlind replied no.

Mike Hodder asked for clarification this is to be treated as a new application.

Matt Sullivan stated the Board is dealing with all elements being proposed and this is to be treated as a brand new application.

Kathy Bernard stated it was properly noticed.

Matt Sullivan confirmed that to be the case.

It was moved by Mike Hodder and seconded by Peter Goodwin to accept the application as complete. All members voted in favor. The motion passed.

Kathy Barnard opened the public hearing for comments.

Ronn Bronzetti stated he and his wife live near the Yum Yum shop, are in support of this and only ask that there be a watchful eye on the trash.

Peter Kelly manager for the Yum Yum shop spoke to the concerns regarding waste and stated they will ensure the trash is not scattered and removed.

Peter Goodwin noted the process has not been smooth; parking spaces were limited in the original plan. However, the number of spaces has increased and there is better result.

Susan Repplier asked if the safety issues have been resolved.

Bryan Berlind replied yes, now there is proper parking and direction as this is a much more typical parking lot.

Susan Repplier asked if the abutter agreed.

Ronn Bronzetti replied yes.

Mike Hodder asked when the bollards will be installed.

Bryan Berlind replied within 30 days.

Matt Sullivan stated he amended his condition on his notes to reflect installation of the bollards within 30 days.

Kathy Barnard asked when the striping will take place.

Bryan Berlind stated within 30 days.

Matt Sullivan asked if the arrows on the plan are to be painted; in and out flow arrows.

Bryan Berlind stated he didn't have them as being painted but did not have a problem doing so.

Matt Sullivan recommended they be painted.

Kathy Barnard asked if it's clear on the plan that there is access from the rear property through the Yum Yum Shop.

Matt Sullivan stated he feels it's clear on the plan as it shows as the easement area and no blocking can occur and asked the Boards preference regarding planting 5 low blueberry bushes to stabilize the shore line.

Bryan Berlind stated he had no issue with that.

Matt Sullivan read the following conditions of approval; noting condition #5 is to be removed, condition #6 is amended as follows and a new condition is added, see below.

1. The following plans, as amended to the date of this approval, are incorporated into the approval:

Plan 1. Existing Conditions Site Plan, Yum Yum Shop, Owner/Applicant: 16 North Main St., LLC, P.O. Box 509, Wolfeboro, NH, 03894, Project Location: 16 North Main St., Wolfeboro, NH, 03894, Tax Map 217 Lot 101 prepared by Bryan Berlind, L.L.S, Land Technical Service Corporation, P.O. Box 60, Ossipee, NH, 03864. Dated February 16 th, 2018. Revised June 18 th, 2018.

Plan 2. Proposed Conditions Site Plan, Yum Yum Shop, Owner/Applicant: 16 North Main St., LLC, P.O. Box 509, Wolfeboro, NH, 03894, Project Location: 16 North Main St., Wolfeboro, NH, 03894, Tax Map 217 Lot 101 prepared by Bryan Berlind, L.L.S, Land Technical Service Corporation, P.O. Box 60, Ossipee, NH, 03864. Dated August 23 rd, 2018. Revised June 18 th, 2018.

Plan 3. Details Plan, Yum Yum Shop, Owner/Applicant: 16 North Main St., LLC, P.O. Box 509, Wolfeboro, NH, 03894, Project Location: 16 North Main St., Wolfeboro, NH, 03894, Tax Map 217 Lot 101 prepared by Bryan Berlind, L.L.S, Land Technical Service Corporation, P.O. Box 60, Ossipee, NH, 03864. Dated February 16 th, 2018. Revised August 23 rd, 2018.

2. The applicant shall be responsible for the payment of all recording fees.

3. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.

4. An as-built plan stamped by a Licensed Land Surveyor is to be provided to the Town of Wolfeboro following project completion.

~~5. Favorable review of the revised Easement Relocation Agreement by Town Counsel at the applicant/owners' expense.~~

6. Parking lines, isles, bollards, circulation arrows to be painted within 30 days of this approval.
7. Installation of erosion control measures and inspection by the Town prior to any construction activities.
8. The applicant shall plant five (5) low bush blueberry plants be added to plans and be planted along the shoreline.

Matt Sullivan asked Bryan Berind to provide a plan to find the appropriate location for the plants for approval.

Brad Harriman asked to add the following to condition #5: existing stripes be removed.

Matt Sullivan confirmed #5 will include "removal of existing striping".

There being no further comments or questions from the public, Kathy Barnard closed the public hearing.

Kathy Barnard stated the application is complete, there is a safer parking lot situation, the patio is compatible with our shore line plantings, the trash issue has been addressed, there is more parking and the neighbors/business owners appear to have a positive relationship and we thank them.

It was moved by Mike Hodder and seconded by Peter Goodwin to approve the 16 North Main Street, LLC Site Plan Review application, Case #2018-12, Tax Map #217-101, subject to the recommended conditions of approval. All members voted in favor. The motion passed.

**Robert P. Seifert Revocable Trust
Agent: Randy Walker
Preliminary Consultation; 3-Lot Subdivision
Tax Map #217-101, Case #2018-12**

Randy Walker representing Mr. Seifert stated the intent is to subdivide Mr. Seifert's lot at 55 Furber Lane into 3 lots, each being 10 acres in size with 200 ft. of road frontage. Mr. Seifert plans to access the lots utilizing 2 common driveways, one from Furber Lane and one from Trotting Track Road. They are seeking guidance on the subdivision as the regulations say a driveway cannot serve more than 3 lots via 174-9E. The proposal is to serve 2 lots, not 3; therefore, we believe the subdivision regulations are met. If the Board disagrees, he questioned if a waiver be sought out.

Matt Sullivan disagreed on the interpretation of the subdivision regulations; the proposal does not meet 174-9E. He stated in order for this proposal to move forward, it's my opinion the Planning Board would, at a future time, when the application is submitted, be required to grant a waiver. He believes Mr. Walker is looking for some sense of the Board on whether or not A) the Board agrees with his interpretation or B) whether the Board might be inclined in the future to grant relief or a waiver on this particular section. He cautioned the Board under the preapplication procedure section of both the state statute and the subdivision regulations that the Board not provide too much specific guidance about regulations that are intended to be reviewed as part of the application process.

Mike Hodder noted the Board cannot do that and asked for the differences of Matt Sullivan and Mr. Walkers interpretation.

Matt Sullivan stated the driveway cannot extend beyond the bounds of the 3 lots. To which it's providing access which is exactly what's occurring. The question is, can the driveway exist on another lot and service 3 lots in a subdivision. Mr. Walker believes this section is intended to prevent driveways extending to lots beyond the 3 lots being proposed. It really comes down to what the Boards opinion is of what the word "extend" means and it's my opinion it means it cannot be outside the boundaries of the 3 lots.

Randy Walker offered copies of the plans.

Matt Sullivan noted he believes the driveway cannot loop through another lot and then enter 3 lots for access.

Randy Walker stated Mr. Frazier and Mr. Seifert are comfortable with the road drifting onto both of their properties. The regulations do not specify that it can't go onto someone else's property but rather can't service 3 lots. The land owners are saying this is not an issue and is internal as it's not a public road. If denied they will have to run another driveway 2,000 ft. up someone's land. The intent is not to add a 3rd driveway to confuse folks as you don't need that many driveways.

Mike Hodder stated the Board cannot give Mr. Walker what he's looking for due to differences of opinion and how to interpret this ordinance.

Randy Walker replied the statute does state the Board could have a preliminary hearing; the Board could make suggestions to assist in resolving problems.

Mike Hodder noted there needs to be a plan and there isn't one.

Kathy Barnard asked where the existing driveway is, and does the Board need to notice abutters.

Matt Sullivan replied he did not believe so.

Randy Walker stated they would notify all abutters.

Matt Sullivan asked if the easement or driveway starts on an adjacent lot.

Randy Walker confirmed it does. It begins on Mr. Frazier's property comes onto Mr. Seifert's then goes back on Mr. Frazier's and winds its way up.

Matt Sullivan asked if there is another lot in the middle.

Randy Walker confirmed it only goes between the two owners who are present.

Kathy Barnard suggested the Board justifies waivers if required and if he requested one, prepare justification.

Randy Walker stated he isn't requesting one.

Mike Hodder asked Matt Sullivan what the purpose/justification of ordinance 179-9E is and what is to be served by that.

Matt Sullivan replied he was uncertain, and Mr. Walker eluded it's been the ordinance for 20 years.

Mike Hodder stated his concern for a meandering driveway crossing 3 lots with an ordinance that doesn't apply.

Susan Replier asked for clarification who owned lot 4.

Randy Walker replied Mr. Frazier owns lot 4 where the road starts and lot 3 is Mr. Seifert's.

Matt Sullivan agreed with Mike Hodder's comment that we are being asked to apply a section of the regulations to a situation that doesn't necessarily match the intent of the regulation and that makes it challenging. The interpretation of this set of the regulations is challenging as well. He pointed out there is adequate lot size and frontage being proposed and are exempt from a form factor required due to their size. He asked the Board if perhaps a waiver might be the way to go based on the unique conditions.

Randy Walker stated he will move forward, submit an application saying we don't need a waiver but ask for one in case we do.

IV. Action Items

**David M. & Susan C. Nonis
Lot Merger
Tax Map #200-22 & 201-08**

Matt Sullivan noted it's 1.19 acres in size; good road frontage.

Kathy Barnard noted it's conforming.

Matt Sullivan stated it's not fully conforming but improving in both ways.

It was moved by Mike Hodder and seconded by Brad Harriman to approve the David M & Susan C. Nonis Lot Merger, Tax Map #200-22 & 201-08. All members voted in favor. The motion passed.

V. Approval of Minutes

August 21, 2018

It was moved by Peter Goodwin and seconded Mike Hodder to approve the August 21, 2018 Planning Board minutes as submitted. All members voted in favor. The motion passed.

September 4, 2018

Corrections:

Page 4, 2nd paragraph, strike "Vaune Dugan asked if this is subject to approval of the State Shoreland permit" and replace with "Vaune Dugan asked for a condition that the state shore land permit be required".

Page 9, 5th paragraph, add "Kathy Barnard stated the Conservation Commission had no concerns with the application".

It was moved by Mike Hodder and seconded Brad Harriman to approve the September 4, 2018 Planning Board minutes as amended. Kathy Barnard, Brad Harriman, Mike Hodder, Susan Repplier voted in favor. Peter Goodwin abstained. The motion passed.

VI. Communications & Miscellaneous

N/A

VII. Unfinished Business

CIP/GWRSD

Kathy Barnard stated our CIP is supposed to look at the projects for the Budget Committee and Board of Selectman, advise them and relay CIP projects along with whatever we are proposing.

Matt Sullivan questioned if the Board wanted to include the school district moving forward. He believes the Board is ok from a legal prospective.

Mike Hodder disagreed and referred to a memo he wrote. The statute uses the word "shall" talk to the school board, but it doesn't specify how.

Matt Sullivan stated ideally the Board should include the school district and noted it's a political discussion.

Mike Hodder noted Tuftonboro is currently doing this and is gathering data from GWRSD. Effingham has begun a CIP and have every intention of speaking to the school board. In 2006 we started collecting hard data from the school board and for some unstated reason without a vote from the Planning Board, the communication ceased in 2008. There is statutory language saying we should. It's important to look at the school boards budget because the purpose of the CIP is to look at capital intensive projects under care more, try to recommend to the Board of Selectman and the Budget Committee how to stagger those over a 10-year period so the tax payers aren't hit in one year with an enormous number. If the school board is going to propose a budget of substantial

size, then it's impact on our tax rate should be considered when talking about a new Library or Public Safety Building. He suggested inviting a Governor Wentworth School District Representative to come on the CIP as a fully voting member.

Matt Sullivan agreed.

Mike Hodder suggested setting up a meeting with Meredith CIP to obtain input.

Matt Sullivan stated he will follow up Meredith CIP.

Peter Goodwin agreed they should be part of the CIP. GWRSD might not be currently included due not having any further projects. A large change in the amount of what Wolfeboro has to pay to GWRSD is associated with the number of students. If that number goes up and down that may actually be a larger number than what the Capital Improvement should be. The Board might want to be looking at the demographics to see if the percentage is going to go up and down.

Mike Hodder cautioned this as they aren't capital investments.

Brad Harriman stated he like the idea of contacting Meredith.

Kathy Barnard asked if the Board should begin conversations with the superintendent and our representative.

Matt Sullivan stated he'd like to reach out.

Mike Hodder suggested Kathy Barnard and Matt Sullivan discuss this with Becky Merrow, Town Manager and with Linda Murray, Board of Selectman on how to proceed.

Consensus of the Board agreed.

CIP Membership

Kathy Barnard stated there was a CIP Committee membership alternate issue.

Mike Hodder stated he'd like to make the following motion "a member is to be at a motion to amend the rules procedure for the CIP" and read the following:

A member of elected board named by that board as an alternate to a regular member of the CIP committee shall not participate in the deliberation, questioning, comment, or review of business before the CIP Committee unless appointed by the chair of the CIP Committee to sit in place of a regular board member who wasn't able to attend a meeting.

The Board reached consensus that at this time an amendment to the Bylaws is not necessary however, if issues arise an amendment will be discussed.

Proposed Amendment to Subdivision Regulations; Section 174-9E

Matt Sullivan read the following change:

(4) All subdivisions shall have adequate provision for safe and suitable access to a Class V or better road OR shall make provisions for the construction of a Class V or better road in order to obtain safe and suitable access to the subdivision. Said access shall be constructed pursuant to the Town of Wolfeboro, Road Construction Regulations, adopted by the Wolfeboro Planning Board.

Matt Sullivan stated he is concerned with some cases that push whether subdivision on a private road could take place and believe this change to the ordinance can assist with this issue.

Susan Repplier agreed.

Matt Sullivan stated the regulations do not support the fact that you can't subdivide on a private road and his primary concern are the private roads on the waterfront and believes the roads should be built to a current Class V standard.

Kathy Barnard asked the Board if they were ok with the change.

Matt Sullivan stated he will review with Town council.

Proposed Amendment to Zoning Ordinance; Section 175:43A. A Non-Conforming Structure Expansion Amendment

Matt Sullivan read the following and noted the bold underlined section to be of concern:

175-43A: (1) A nonconforming building or structure may be maintained or rebuilt as it existed at the time of the passage of this section and may, by special exception be expanded by no more than 25% of its existing **non-conforming** area at that time **provided there is no further linear encroachment/expansion into the setback area.**

Kathy Barnard clarified that a non-conforming building is something that is built over the set back or too high.

Matt Sullivan confirmed.

Matt Sullivan stated he is suggesting a special exception if you are under the 25% provided there is no additional linear encroachment towards the property line from which the side set back is being measured.

Mike Hodder asked why protect only in that direction.

Matt Sullivan stated he is trying to avoid any further encroachment and is asking the Board for direction.

Brad Harriman suggested that if there is no further linear encroachment toward the side set back etc. then it should be ok with a special exception. But if you encroach closer you need a variance.

Matt Sullivan stated a decision doesn't need to be made tonight; looking for clarity.

Mike Hodder stated he is uncomfortable with this change as you are restricting the direction.

Matt Sullivan stated he will bring an amendment to the Board.

Pine Hill Road Development District – Proposed Boundary Amendment

Brad Harriman recused himself.

Matt Sullivan stated he would like to suggest a zoning change; an amendment to modify the zoning boundary to the Pine Hill Development District. This would allow for an increase in flexibility to the commercial properties while limiting impact to residential properties.

Kathy Barnard asked what year the most recent rezoning took place.

Matt Sullivan replied he would investigate and noted this relatively low risk.

Susan Repplier asked if the current owners would be happy being rezoned.

Matt Sullivan stated a meeting would take place to find out but believes it's worth exploring.

Kathy Barnard asked about the petition.

Matt Sullivan stated a petition warrant article from Victor Drouin is expected. He will get a map to the Board and confer with Victor Drouin to see where he's at prior to the next meeting.

VIII. New Business

N/A

IX. Planning Board Subcommittee Reports

N/A

X. Nonpublic Meeting

N/A

It was moved by Mike Hodder and seconded by Peter Goodwin to adjourn the September 18, 2018 Wolfeboro Planning Board meeting. All members voted in favor. The motion passed.

There being no further business, the meeting adjourned at 9:18 PM.

Respectfully Submitted,

Cathleen LaPierre

Cathy LaPierre

*****Please note these minutes are subject to amendments and approval at a later date. *****