

Town of Wolfeboro
Planning Board Agenda
Great Hall at Wolfeboro Town Hall - 84 South Main Street
Tuesday, September 20, 2022
7:00 PM

I. Chairman Barnard called meeting to Order 7:00 PM

II. Members Present: Chairman Kathy Barnard, Vice Chairman Mike Hodder, Peter Goodwin, Doug Breskin, Vaune Dugan, John Thurston, Brad Harriman Selectmen's Representative, Julie Jacobs, Alternate

Staff Present: Tavis Austin, Director of Planning and Development

III. Public Hearings:

- (a) LIBBY-MILL, LLC- GRAHAM COMBES – 36 Mill Street – Tax Map & Lot #217-27 – Case #2022-10 – Site Plan Review- Outdoor Seating – continued from 09/06/2022**

Resident R. Swaffield handed out an amendment from 30 years ago stating that there can't be a decrease in parking spaces. She stated that she checked with an attorney, and he said the Planning Board has no authority to waive a parking regulation, the applicant would have to go before the ZBA.

Resident Fred Fernald of Libby St. stated the neighborhood concern is about the noise. Mr. Fernald read from the June 20, 2017, minutes. "Attorney DeVlyder said, abutters are entitled to quiet enjoyment of their property. Chairman Barnard stated that noise would be addressed thru the town's noise ordinance.

Resident Bill Swaffield asked about addressing the kitchen being enlarged and wondered if the Board needs to know about this before they make a decision. He also asked about the procedure that the applicant used to move outdoors.

Planning Director Tavis Austin spoke to both questions. Stating that nothing has come through his office regarding kitchen enlargement, but the applicant could apply for a permit without necessarily effecting parking. The change back during Covid, outdoor dining was authorized by the Governor.

Mr. Swaffield continued his remarks stating that if the Board decided to approve the applicants request a condition should be added that the current use goes with the business not with the new owner, just in case the business is sold, he also stated that the music should be kept indoors and would like the Board to take this all into consideration.

Graham Combes Owner of Lone Wolfe stated that the purpose of this application was for outdoor seating and parking spaces and believes this is being overlooked. Back in 2017 Kurt DeVyllder represented him and presented in great detail the agreement. Graham asked to continue with the music from Memorial Day thru Labor Day in accordance with the Noise Ordinance, in order to sustain his business

Resident Derrick Brown of Libby St. spoke to the 2017 minutes and pointed out several things that were going to be adhere to and are not. He respectfully believes they have been overlooked or not addressed by the Board or Mr. Combes.

Resident Bill Swaffield addressed the Board further with concerns of other outdoor eating establishments could potentially host music and this would become carte blanche.

Chairman Barnard referred to the 2017 minutes where Mr. Combes stated the music was going to be held inside the building, with non-amplified acoustic music.

Director of Planning Tavis Austin made the comment that Mr. Combes has not applied for approval to modify his current agreement regarding the music.

Vice Chairman Mike Hodder stated that the business appears to be in violation of the 2017 agreement.

Tavis Austin stated that the original approval holds.

Resident Bill Swaffield asked about how the Board would address a complaint.

Tavis Austin, told him the Police Department would be the first line of complaint, if there were many of them then a letter to his office would be submitted and the Planning and Development Office would send a letter to the owner stating he was in violation of agreement.

Mike Hodder stated that back in the 2017 minutes, the Board approved acoustic music that would be played indoors.

Graham Combes stated that he did say back in 2017 that the music would be “mainly” acoustic, not solely. Things changed during the Governors’ Emergency order for outside dining, Graham stated that he spoke to the then Planning Director and asked if he could continue on what was being done inside be held outside. Graham asked if he should have come before the Board back in 2020 and he is confused.

The Board spoke to “Mainly” amplified acoustic music not being played outside only inside

Chairman Barnard closed the public hearing.

John Thurston asked if the planters would be moved in the Winter as Mr. Combes stated.

Vaune Dugan is not opposed to the request of additional parking as long as applicant complies with prior 2017 agreements.

Mike Hodder stated the applicant has satisfied 175.138 of application and he would accept approval with Conditions.

Tavis Austin read the conditions of approval:

1. The following plans, as amended to the date of this approval are incorporated into the approval: **Plan Set: Materials** as received on August 09, 2022.
2. Applicant shall be responsible for the payment of all recording fees for Notice of Decision.
3. All 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. If there is to be music, it shall be “mainly nonamplified music, confined within the building.”
5. Planters and tables must be removed in the winter

Mike Hodder made a motion to approve the application with the 5 conditions made by the Board, Kathy Barnard seconded the motion, 5 in favor, 1 opposed, motion passed.

(b) BREWSTER ACADEMY – 80 Academy Drive – Tax Map & Lot 218-150-Case #2022-11 – Site Plan Review – Temporary Ice Rink & Associated Equipment – Formal Submission/Public Hearing

Peter Gilligan CEO for Brewster Academy and Susan Harrington CFO for Brewster Academy were present to speak to the application.

Chairman Barnard stated that the application has a lot of Waiver request and asked for them to speak to the reason for them

Mr. Gilligan spoke to the Site Plan.

Chairman Barnard, Mike Hodder, and John Thurston made comments that there wasn't enough information.

Mr. Gilligan presented plans as submitted.

Mike Hodder explained that this is not how a site-plan review is usually conducted.

Mr. Gilligan stated he had a meeting with Tavis Austin and Kathy Barnard 3/12/22, months ago, regarding the proposed plan.

Chairman Barnard stated that the earlier discussion was a very informal meeting to gather information and stated that she spoke with Tavis Austin after said discussion the meeting saying that she felt there was not enough information included in the request.

Mr. Gilligan and Ms. Harrington continued with the presentation with the information they had available, explaining that the abutters or anyone close in proximity of the project have been approached; none expressed any concerns to them about the project.

Mike Hodder stated that this is the most disorganized site plan review, and that he has no intention of voting for this proposal, until he has a proper site plan review in front of him He stated that the waiver requests were missing information, on lighting, temporary shed, and the impervious surface

Susan Harrington stated they were told by the town when they inquired back in April that this was a light review. She was unaware they needed a full site-plan review. What would constitute them presenting a full site plan review to the Board.

Ms. Harrington asked what it is that triggers this request from that of what they do every year, that would necessitate a full site plan review.

Mike Hodder doesn't know about the concrete and what is going underneath it, request for shed and how close it to the lot lines even your own, lights are involved, and we don't know where they are going, there is the noise issue, he doesn't know what kind of noise the compressor would be giving along with use of the Zamboni, and he doesn't know how high the poles are going to be.

Peter Gilligan stated that since construction hasn't started yet they could change the concrete building to a canvas structure.

Mike Hodder asked if they were changing their application mid-stream.

Peter Gilligan explained that he would have come to the Board with a full site plan review if it was told to them that was what they needed, they were told that this was a light review and everything they were presenting looked fine, and they would see them on a certain date to go before the Board for approval. He apologized for not being as prepared as some members are expecting.

Ms. Harrington also stated that time was of the essence, they had to proceed with this proposed project as enrollment was going to be an issue. When parents heard that there may not be access to a rink a lot of the Hockey parents said they would remove their child from the school due to the lack of an accessible hockey facility. We didn't come here with a full site plan review because of our communication with Tavis and the Temporary nature of this structure.

Chairman Barnard asked Tavis Austin to speak to the application.

Tavis Austin stated, that it is a temporary structure, minor grading, six dark sky compliant lights which is on the plan. He believes this application is borderline if it even requires site plan review.

Kathy Barnard stated that it has lights and noise involved and that would need review. Usually when people put up lights, they come in with a site plan.

Peter Goodwin asked about the noise device being at a 65 decimal which is not considered loud, asked if they would be using Abenaki area once its back online, and asked about the impervious mat, and housing of the Zamboni.

Peter Gilligan addressed noise question stating that yes, it is 65 decimals, they would be going back to Abenaki once it is back online, and the mat would be removed from the temporary housing for the Zamboni. He then confirmed this request is for one season.

Susan Harrington stated that once Abenaki is up online that is what they will be using.

Kathy Barnard asked if this building will be totally removed at the end of the seasonal

Peter Gilligan stated that yes it would be taken down and removed and stored.

John Thurston asked how high your wind screen is.

Peter Gilligan stated that they would not be using a wind screen.

Peter Goodwin, asked about the impervious mat and if needed to be frozen, and asked if the shed could be canvas to house the Zamboni.

Peter Gilligan stated they can certainly change their plan.

Kathy Barnard asked about the time the facility would be in use. Kathy believes she read until 8:00 PM.

Susan Harrington stated the rink would be open from 7:00 AM until 8:00 or 10:00 PM whichever time the Board is comfortable with. They have reached out

to Bay Back, and Kingswood High School Athletic Director to see if they have interest in using the rink, that is why she mentioned 10:00 PM.

Tavis Austin stated that Kathy read the correct time on the application. It states the hours as 6:30 AM to 8:00 PM.

Mike Hodder addressed Tavis Austin asking if the meeting was being recorded, Tavis responded that it was. Mike requested that the minutes be verbatim. That the applicants have been stating and agreeing to several operational characteristics and he does not want the Board or the applicants to lose track of these characteristics—particularly as they are neither in the submitted materials or documented outside of the minutes.

John Thurston doesn't feel comfortable approving the lighting waiver, he would like everyone to follow the process.

Peter Goodwin made a motion to grant all waivers for the application that is being represented. Doug Breskin Seconded the motion. Motion passed with Kathy Barnard, Peter Goodwin, Vaune Dugan, Doug Breskin in favor and Mike Hodder and John Thurston opposed.

Peter Goodwin made a motion to accept the application as complete, Vaune Dugan seconded the motion, motion passed with Kathy Barnard, Doug Breskin, Vaune Dugan, Peter Goodwin in favor and Mike Hodder, John Thurston opposed.

Chairman Barnard opened for Public Hearing

Bob Tougher, neighbor of Brewster Academy for 28 years stated that he and wife have had no issues with noise or bad behavior and is in favor of application moving forward.

Chairman Barnard asked Tavis for conditions of approval

Planning Director Tavis Austin read the conditions of approval

1. The following plans, as amended to the date of this approval are incorporated into the approval: **Plan Set: Materials** as received on August 16, 2022.
2. Applicant shall be responsible for the payment of all recording fees for Notice of Decision.
3. All 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. Surface will not be used for competition games.
 5. This temporary installation is approved for one season (October 2022 through March 2023) or until full site plan approval is granted.
 6. The underlying impervious rubber mat will be installed after ground is frozen and removed upon spring thaw.
 7. Applicant shall utilize a temporary shed structure (no permanent foundation) for the Zamboni.
 8. Hours of operation shall be 6:30AM to 8:00 PM.

IV. Discussion Items:

- (a) Lots with no frontage

Tavis Austin presented changes as asked by the Board.

Board members generally discussed the changes and asked for legal review of the changes.

- (b) Inclusionary Housing amendments (pending legal review)

T. Austin noted he had not yet heard back from the Town Counsel on this; he will update the Board when a response is received.

- (c) ADU Forum discussion

Board discussed next steps with the amendment. M. Hodder motioned to set the date of public hearing on the proposed amendment.

T. Austin suggested multiple hearings to be set for the second meeting in October or first meeting in November given the full agenda for the October 4, 2022 meeting.

Comments from Public: Linda Murray stated that if anyone wants more information on their Budget, Amy can get it for you.

Review of Minutes: No minutes reviewed.

V. ADJOURNMENT

M. Hodder motioned to adjourn the meeting at 9: 15 PM. K. Barnard seconded the motion which passed unanimously.