

COÖS COUNTY PLANNING BOARD  
Lancaster, NH  
May 13, 2015

**Present from the Board:** John Scarinza – Chair; Fred King – Vice Chair; Jennifer Fish – Clerk; Ed Mellett, Scott Rineer, Mike Waddell, Rick Tillotson (*arrived at 6:10*); alternate Tom McCue; and Board Secretary Suzanne Collins.

**Also in Attendance:** Tara Bamford, North Country Council; and Representative Wayne Moynihan.

John Scarinza, Chair, called the meeting to order at 6 PM. He appointed Alternate Tom McCue to sit in for Rick Tillotson.

**APPROVAL OF MINUTES OF APRIL 22, 2015:**

Mike Waddell made a motion to approve the minutes of April 22, 2015 as distributed. Fred King seconded the motion. There was no discussion. All members voted in favor of approval.

**LETTERS/CORRESPONDENCE TO THE BOARD:**

Jennifer Fish reported that no correspondence had been received.

**NEW BUSINESS:**

None.

**BUILDING PERMITS:**

John Scarinza stated that he had reviewed one building permit application that he would discuss with the Board after the work session on the Zoning Ordinance document.

**OLD BUSINESS:**

Tara Bamford distributed a handout of her take away questions and comments from the last meeting. She stated that she plans to have a first draft of amendments to the zoning ordinance after the Board further discusses issues outlined on the handout.

1. **Leased Lots.**

Tara thought that if lease lots were not considered to be just like deeded lots, but were instead considered to be multiple buildings on the same lot, then technically they would not need a waiver per RSA 674:41 as long as the “parent lot” had frontage on a Class V or better public road. Ed Mellett asked if Tara was saying that a large

landowner could not lease lots anymore if there is no Class V or better road to access the lot. He stated that Dix's Grant only has land management roads. Tara thanked him for the observation as that issue was not stated at the last meeting. Fred King stated that he thinks the Board wants to continue to enable large landowners to continue to lease lots but the lessees must understand that there is no Class V or better access road and no municipal services provided. Mike Waddell stated that the Board should continue to allow large property owners to lease out lots for seasonal camps. This is a longstanding tradition.

John Scarinza stated that at some point in time a leased lot may get sold and the Board needs to create provisions to go along with a leased lot. There is also a problem with issuing a building permit on a leased lot that does not have an access in accordance with RSA 674:41. He acknowledged that under RSA 674:41, the County Commissioners can grant a permit. The Zoning Ordinances should clearly notify the applicant that only seasonal camps will be allowed on lease lots not accessible by Class V or better highways. Mike Waddell stated that he has never seen a lease for a year-round residence that is not on a Class V or better road. Tom McCue noted that the issue before the Board is that seasonal camps can be improved to the point where someone wants to live there full time (which constitutes a change of use).

Tara Bamford asked for clarification, "Is the key thing that it is a leased lot or that the building is seasonal?" Mike Waddell replied, "Seasonal". He continued that if someone wants to cut out a building lot in the middle of nowhere on a logging road, then it could potentially be an issue for the Board and the County. Ed Mellett stated that a good example was Boise selling off its non-productive lands when some people bought camps. John Scarinza stated that if a timber company wanted to sell lots, the company would need subdivision approval and the Planning Board would require deeded rights of way to prove access. Mike Waddell stated that the Board needs strong and clear language in the Zoning Ordinances to define "seasonal camp". Fred King cautioned the Board that if an individual buys a leased lot and has kids that need to go to school, under the current statute the Commissioners could grant a building permit under RSA 674:41 so it is important that the Zoning Ordinance strongly discourage a building permit application from being filed and that the Board clearly explains to the Commissioners the potential ramifications of granting a building permit. Ed Mellett added that with today's technology, a residence could be built off the grid in the middle of nowhere. Fred added that it needs to be clearly stated to an applicant that the County will not be responsible for schooling or other municipal services.

John Scarinza stated that when any application for subdivision is considered, roads will have to be built to state standards but he is uncertain if the Planning Board or Board of Commissioners can state that the landowner has the responsibility of getting kids to school.

John Scarinza asked if the Board wants to encourage future new leased lots. Rick Tillotson suggested perhaps cluster type developments that require a specific amount of open land devoted to that cluster.

Fred King suggested to Tara that the Board needs more stringent regulations on new leased lots. Tara stated that the Board could require that leased lots have metes and bound designations as well as limits of municipal liability included in the leases to be recorded.

## 2. Seasonal Camp versus Dwelling.

Tara Bamford presented a draft of a new definition. 3.69 Seasonal Camp: A non-commercial recreational camp, with a state approved means of wastewater disposal, for the use of the lot owner or sole lessee and his/her invitees and guests, who have another usual place of residence; not for year-round or primary residency.

Tara stated that the Board also needs to look at what is allowed in each district. A General Development District should state that seasonal camps are specifically allowed in addition to single dwelling units. Seasonal camps should also be added as an allowed use to the Residential Development District. Seasonal camps (now called remote camps) are already allowed in Management Districts.

Rick Tillotson stated that the Board still has not defined the time limit of “seasonal”. Mike Waddell suggested that if we spend legal money on nothing else, we should get legal counsel on this in advance. Tara replied that she will request a legal opinion on this issue from the NH Municipal Association.

Fred King asked if Tara had found any guidance on seasonal camps in the Maine Land Use Regulatory Commission (LURC) language. Tara replied that the LURC language is very bureaucratic and hard to follow but she will look into their seasonal camp language.

John Scarinza stated that the Zoning Ordinance needs new language that clearly states to an applicant that if a seasonal camp is proposed for a location not accessible by Class V or better road, they will be required to get a waiver from the Board of Commissioners. In response to Tara’s question, “Are there differences in the kind of access that is acceptable for seasonal camp versus year round dwellings?”, the response was “yes, if it is a seasonal camp”.

Tara’s next observation was that the current regulations mention a camp size “generally consisting of not more than 750 square feet” but it is not really a requirement. She asked if there should be a size limit (other than 30% lot coverage limit in Section 7.05). Mike Waddell suggested deleting the words “generally consisting” and Tara stated she would add the word “seasonal” to camp.

Discussion continued on Tara's question "Is the only reason to have the two categories – seasonal camps versus year-round dwellings to manage conversion to year-round regarding access and septic." Mike Waddell stated that clear language is needed to protect the County or Unincorporated Place from having to provide government services such as fire, ambulance, police, and education. Tara stated that she will check with legal counsel about the Board of Commissioners ability to put conditions on a waiver for a building permit.

Tara had further inquired if seasonal camps can be clustered per 3.14 and 7.07. She stated that she will work on language for seasonal camps in clusters. She had also asked if the word "remote" was important in references to "remote camp" or "remote camping site". It was agreed that "remote camp" would be changed to "seasonal camp" and that "remote camping site" would be changed to "primitive camping site".

3. Driveways vs. roads/streets/highways.

Tara's next request for guidance from the Board: Typically driveway is defined as serving up to two dwellings, and the access to three or more requires compliance with road standards even if private. Is there any reason to include a third category for access to seasonal camps, e.g., primitive, unpaved, not maintained for year round use, primary purpose land management, use as access to seasonal camps or primitive campsites is incidental? Tara suggested to the Board that it needs more definitions to work with. Ed Mellett agreed that a definition for driveway is needed. Tara added that there is a hole in the regulations regarding access. All new leases should require metes and bounds and clearly state access. It was agreed that the Board needs more definitions to work with in this category. John Scarinza referred the Board to definition 3.39 Land Management Road. Tara stated she will add more restrictions to this definition.

4. Section 4.03E Shorelines and 7.04 Setbacks.

Tara noted that together these require a 100' setback from shorelines and Planning Board review of building permit applications within 200'. However, there is no language regarding maintenance of shoreline vegetation, an even more important consideration of water quality and habitat. She suggested that she draft some language about vegetation along shorelines that are not covered by the Shoreland Protection Act.

5. Section 4.03F Steep Slopes.

Tara stated that 27 degrees (51%) is really quite steep. Planners generally recommend that development be prohibited on slopes over 25% and that an erosion control plan be required for development over 15% slopes.

Ed Mellett reminded the Board that this section applies primarily to zoning permits for timber companies to cut in high elevations and he cautioned against making the requirements in this district any stricter.

Tara stated that she will prepare language for a separate section on erosion control that applies to large development in all districts.

6. Section 4.07 Planned Development Subdistrict.

Before the discussion on the language in this section began, Sue Collins asked if the redevelopment taxing district referred to in the just passed Senate Bill 30 would overlay with the planned development district envisioned by the developers of The Balsams Resort. Rep. Moynihan indicated that he had attended the meeting to speak about this issue. He stated clearly that the redevelopment taxing district is yet to be defined by the Commissioners and is unrelated to the planned development zoning district.

Tara's advice relative to the Planned Development District language is that a simpler and more typical way to accomplish this would be to allow Planned Unit Developments along the same idea, in any district according to a set of criteria, with a Conditional Use Permit issued by the Planning Board. Bretton Woods is an example of a Planned Unit Development. The concept plan locks in x number of units and x number of square feet of various uses, and certain conditions, then final plans are reviewed and approved by the Planning Board before construction of each stage/section. Her suggestion is that this method would be much less cumbersome and bureaucratic than the current regulation.

It was agreed that Tara would draft new language for consideration.

7. Non-Conformance.

9.01 Right to Continue. Tara inquired if the Board had any list of criteria for special exceptions whereby there is a change of use from one use to another that is more consistent with the current area and not contrary to the spirit of the ordinance. Mike Waddell stated that the Board needs to clearly state special exceptions or the change of use would require a variance. Tara's questions included: (1) What about expansions of nonconforming uses? (2) And expansions of nonconforming structures? (3) Typically zoning ordinances give ZBAs some oversight on expansions/changes. Should Planning Board play the part of ZBA here? Are there some cases where it can be administrative?

John Scarinza stated that from a safety standpoint, the Board should not allow second stories to buildings on lots that do not meet setback requirements.

9.02 Rebuilding After Catastrophe. It was agreed that one year was short for rebuilding and the language should be changed to two years. Additionally, the ordinance needs to clearly state provisions for extension of building permits.

Tara's last questions dealt with undeveloped lots that predate the ordinance and do not meet size and/or frontage requirements. John Scarinza stated that is what he has been trying to deal with. If it is a grandfathered lot, the frontage standard does not apply but the permit application must meet the setback requirements. Tara stated that there is no right to develop on an empty non-conforming lot. John suggested that to eliminate ZBA appeals on non-conforming lots, the ordinance should state, the setback will be "x" - for example, reduce the setback on non-conforming lots to 15' on the side. This would establish a new minimum setback for non-conforming lots.

Tara stated that she would contact the NH Municipal Association for legal advice on the following:

- Can we add language to Conditions of Waiver that clearly state that no one residing in the structure will attend school?
- Can the Board of Commissioners even issue a building permit on a lot that has no access?
- Conditional Use Permits issued in lieu of ZBA variance.

#### **BUILDING PERMIT APPLICATION:**

John Scarinza stated that he has received a building permit application for a new structure on a lot on Success Pond. Lot size is 1 acre +/- with 20' on the road, 200' on the shore and setback requirements are met. The proposed 2-story building is 24'x 40' with an adjoining 16'x 16' structure. The estimated building cost is \$120,000. There is a shoreland permit, a state approved septic system permit and a well. It is essentially a year-round residence. The lot currently has no existing structure. The lot does not have frontage on a public way and he recommends that the application has to go to the Board of Commissioners for a waiver on the road frontage issue. It must be clearly stated that there is no municipal liability. Mike Waddell stated that the Commissioners need to make sure this seasonal dwelling does not become a primary residence. Tara Bamford stated that she will get a legal opinion on the issue of restrictions on seasonal residences prior to the Commissioners' meeting.

#### **TIME AND DATE OF NEXT MEETING:**

John Scarinza stated that the next meeting is scheduled for May 27, 2015 at 6 PM. The agenda will include a general presentation to the public of The Balsams Conceptual Plan as well as a discussion with the Planning Board of a planned development district for Dixville. This meeting may serve as the pre-application conference for The Balsams developers. The meeting will be held at the Colebrook Schools Gymnasium. Tara stated

that she will plan to attend and John has extended an invitation to Colebrook Planning Board Chairman David Brooks.

John stated that he is leaving the June 10<sup>th</sup> date open for The Balsams and that the next scheduled meeting for Zoning Ordinance discussion will be on June 23<sup>rd</sup>. By then Tara will have draft language.

Rick Tillotson inquired about the Board engaging the services of a construction oversight expert. John Scarinza stated that the Board will need an attorney to review any documents presented. He added that when the time comes, the Board or Commissioners may need an additional contract with North Country Council for review of the proposed planned development district. Additionally, the County or Planning Board will need a qualified representative to manage inspection of the project. John stated that the developers have stated that they will have their own inspection team and the developers may ask if that will suffice our needs. John added that the State agencies will need to be involved in inspection activities as are the County Commissioners. Fred King recommended that the Commissioners engage expert services to review the developers' reports of inspections.

Rick Tillotson asked how we are going to approve plans without professional consultants. John Scarinza replied that we are going to require engineer/architect stamps on documents and the State of NH will provide fire and life safety reviews prior to construction. Mike Waddell stated that this is a \$243M project and the State will be actively involved. Developers all have actual stamped plans but the Planning Board needs someone qualified to meet with their experts to keep the Planning Board informed. There needs to be someone in that role.

Fred King asked John Scarinza to meet with the Commissioners to share the Planning Board's expectations regarding The Balsams Project.

**ADJOURNMENT:**

Rick Tillotson made a motion to adjourn. Ed Mellett seconded the motion and all voted yes. The meeting adjourned at 8:30 P.M.

Respectfully submitted,

Suzanne L. Collins  
Secretary to the Planning Board