

COÖS COUNTY PLANNING BOARD
Lancaster, NH
February 28, 2018

Present from the Board: John Scarinza – Chair; Fred King – Vice Chair; Jennifer Fish – Clerk; Rep. Wayne Moynihan, Commissioner Tom Brady; Ed Mellett, Scott Rineer and Mike Waddell; alternates Tom McCue and Mark Frank; and Board Secretary Suzanne Collins.

Also in Attendance: Tara Bamford, Planning Consultant; Attorney Earl Duval on behalf of The Cog Railway; Attorney Jason Reimers, BCM Environmental & Land Law; members of the press and public.

John Scarinza, Chair, called the meeting to order at 6 PM.

APPROVAL OF MINUTES OF OCTOBER 25, 2017:

Mike Waddell made a motion to approve the minutes of October 25, 2017 as distributed. Rep. Moynihan seconded the motion. There was no discussion and the minutes were approved by unanimous voice vote.

PUBLIC COMMENTS NOT RELATED TO AGENDA ITEMS: none

SEATING OF ALTERNATES:

Chairman Scarinza stated that Mark Frank would sit in for Rick Tillotson.

Chairman Scarinza stated that he had obtained some press releases that stated or implied that the Planning Board would make a decision at this meeting relative to a hotel to be constructed on Cog Railway property. He informed the public that the Board has received no application for a hotel at this time. There is nothing formal on this project before the Board.

NEW BUSINESS:

a. **Commissioners' Request for Advisory Opinion Regarding Cog Trail – Thompson & Meserve's Purchase.**

John Scarinza stated that on or about November 16, 2017 the County Commissioners received a letter from BCM Environmental and Land Law, LLC regarding the construction of an unpermitted Snowcat Road, for a Snowcat to travel from the bottom of the Cog to somewhere at the top of Mount Washington. John stated that statements about this trail had been made at a meeting of the Mount Washington Commission. The County Commissioners referred the BCM letter to the Planning Board for an advisory opinion. The County Commissioners are the enforcement arm of the County's ordinances.

John asked if Board members had any questions about the BCM letter. Mark Frank asked if the Snowcat trail is for private use or public use. He continued, "What is the owner's purpose in constructing the trail to run Snowcats up the mountain?" Edith Tucker surmised that the trail is located in the same corridor used by the state to put in an electric line to the summit several years ago. She added that this area had already been disturbed by the state electrification project. John replied that it was possible that both corridors are the same but the state had not been required to get its project approved by the Planning Board since the State is exempt from local planning.

John agreed that the Planning Board needs clarification from the owner regarding the purpose of this trail as it pertains to the County's ordinance.

Rep. Moynihan stated that the Board of Commissioners is the enforcement arm; what do they expect the Board to do? John replied that the Commissioners asked for an opinion on whether a violation has occurred. Tara Bamford stated that the Commissioners' minutes of December 13, 2017 state that the Commissioners remanded the issues raised in the BCM letter to the Planning Board for an advisory opinion. Commissioner Brady added that the Commissioners were not in a position to determine if a violation had occurred. Fred King stated that it's the task of the Board to look at the issue relative to our regulations and report back to the Commissioners.

John Scarinza returned the discussion back to Mark Frank's question of what is the owner's intended purpose.

Attorney Earl Duval stated that he was attending the meeting at the request of The Cog Railway. They only learned that this issue was on the Board's agenda a couple days prior and he was not prepared to answer specific questions on behalf of his client. The Cog wants an opportunity to respond to what has been done and why.

John Scarinza asked Attorney Duval to reply to the Board to question #1 – What is the intended purpose of this corridor?

John asked for further questions from the Board. If the Board were to assume it's a road, what design was prepared prior to building the road?

Mike Waddell stated that this Board is currently in no position to make any decision. The folks who put the power line in certainly used machinery such as an excavator moving at a crawl. To call it a road is quite a stretch. He added that the terrain on both sides of the Cog Railway tracks is very rough ground which can be navigated when there is several feet of snow but on bare ground traveling it would be very different. Mike wondered if there was an exact history of the installation of the power line and surmised that there are a lot of issues on Mt. Washington that the nature of this complaint could bring up.

Commissioner Brady stated that the Cog should be given the opportunity to respond to the BCM letter. After that response is received the Board will be in a better position to know what questions need to be asked. They may reply that it is not a road at all; just a trail.

Tara Bamford stated that the question is if the construction needed a permit. What vehicles are they using on it? If it's a maintenance road, it needs a permit. If it's a road intended to carrying paying customers up and down the mountain as a business, it needs site plan review.

Fred King stated the Planning Board has the authority to grant a permit but the question is if they even needed a permit if it's a trail. After more information is received, they may need to come back to apply for a retroactive permit.

Rep. Moynihan cautioned Board members to be careful not to prejudice the situation. Board members need to stay neutral until a response is received from The Cog. He thought the Board members were getting ahead of themselves. Mark Frank stated that right now Board members are asking questions like they would do if presented with a conceptual.

John Scarinza stated that Attorney Duval has been asked to clarify the purpose of the trail and what was done to construct it.

Tom McCue wanted to know why the ZBA is not involved. John Scarinza stated that if the Planning Board took an action and opponents disagreed it might go to the ZBA but the Planning Board has taken no action.

Attorney Duval asked who should get The Cog's response to the BCM letter – the Commissioners or the Planning Board. Commissioner Brady replied that the Commissioners threw it in the lap of the Planning Board so The Cog should respond to the Planning Board who can then share it with the Commissioners.

Commissioner Brady suggested that perhaps Chairman Scarinza should conduct a site visit prior to the next meeting. Ed Mellett asked if there are pictures of the work that was done.

John Scarinza asked Attorney Duval to produce pictures and plans of what was done.

Attorney Jason Reimers asked if the Board had received BCM's letter dated December 11, 2017. He stated that the 12/11 letter was a follow up to the 11/16 letter after more evidence had been gathered. He shared copies of the 12/11 letter with the Board members and the press.

Attorney Duval requested a timeline for his client's response. It was decided the response would be due a few days prior to the April meeting (4/18).

b. Review of PD8 Unusual Areas.

Tara stated that in preparation for the upgrades to the zoning maps this year; discussion needs to begin on the protected districts.

She distributed a Discussion Guide she had prepared on the PD8. In addition to the Zoning Ordinance 4.03H Unusual Area (PD8), Tara had reviewed the Zoning Maps and attempted to identify all the PD8 areas. She stated she had no idea how these areas had ended up on the maps. Sue Collins described the process that took place in 1988 or thereabouts where Board members worked in subgroups with USGS topo maps to identify areas of special significance that they recommended to be designated as PD8's. Sue stated there were minutes of those meetings but since each subgroup worked concurrently, it was unlikely that the minutes would be specific enough to answer Tara's questions.

Mike Waddell suggested that since there are not that many areas designated PD8 that the Board go through the list.

Atkinson-Gilmanton Academy Grant – Hellgate. Mike suggested that this one remain designated a PD8. He suggested that we contact Kevin Evans, Dartmouth College forester to get his opinion. John Scarinza stated that he would call Kevin. Tara cautioned against asking a landowner to provide an opinion on zoning. John Scarinza replied that he will ask Kevin for Dartmouth's management plan.

Second College Grant – Hand in the Rock. Scott Rineer asked if a rock really needs a 600' buffer. Sue Collins explained how special this rock was to a Board member at the time. John agreed to talk with Kevin Evans about this too.

Wentworth Location – Tara wondered if the areas designated as PD8's are a certain portion of the National Wildlife Refuge. Sue Collins replied that the Umbagog Refuge did not exist at the time and to the best of her recollection, the areas designated as PD8's were nesting areas along the Magalloway and Lake Umbagog. With the Refuge now in place, it may no longer be necessary to designate PD8's in these areas.

Cambridge – 13 Mile Woods Area. Once again it was noted that the corridors on both sides of the Androscoggin River are now in conservation easement and the PD8 designation may not be needed. John agreed to check on this one. Tara said she would look into it also.

Cambridge - Umbagog State Park. Scott Rineer stated that the Umbagog State Park is now protected.

Cambridge – Logging Camp with 750' Buffer. Scott Rineer stated there is nothing there to protect.

Millsfield – Signal Mountain Fire Tower. Sue Collins mentioned that Colebrook Area Dispatch covering the Errol area has emergency communication antennas on this site.

Success – Appalachian Trail Corridor. It was clear from the maps that the PD8 is the AT corridor which is already protected by the federal government.

Dixville – Swift Diamond Farm. Ed Mellett and Scott Rineer didn't think there was anything left there to protect. The Conservation Fund might have bought this area.

Dixville – Ramsay Camp and Old Ramsay Camp. John Scarinza suggested a road trip to this site. Scott stated that there is a lease there and a well maintained camp. However, there is no evidence of Old Ramsay Camp still in existence.

Dixville – Canal and Canal Tributary. Sue Collins stated the canal structure is still there, has not been in use for decades but is unique and included in the current marketing tours of the Balsams property.

Dixville – Dixville Notch, Table Rock, The Flume, Cascade Brook. There was general agreement that these remain unusual areas. All agreed that this area is worthy of further discussion.

Sargent's Purchase, Thompson & Meserve, and Green's Grant – The Mount Washington Summit, The Mount Washington Auto Road. Tara questioned the 800' buffer around the summit and the 125' wide strip along the auto road. Ed Mellett suggested eliminating the PD8 zone on the summit of Mt. Washington. Mike Waddell agreed and stated that it should also be eliminated along the Auto Road.

Green's Grant – Buffer around Garnet Pool. Sue Collins stated she recalls no discussion of a Garnet Pool. Tara stated she had guessed that the PD8 must refer to Garnet Pool. This one remains a mystery PD8 designation.

Tara wondered if there is another way to think about these sites; she has never seen overlay districts like these. These places would more typically be mentioned in a Master Plan rather than in Zoning Ordinances. It was agreed that many of these areas are protected now by either the federal government or conservation easements. Tara suggested an amendment to the Master Plan with a list of special places and how to minimize impact on these places.

Rep. Moynihan remarked that this might completely eliminate the PD8 Unusual Areas Protected District from the Zoning Ordinances.

c. **New Application Forms for Lot Line Adjustment, Subdivision, Site Plan, Voluntary Lot Merger and Zoning Permit.**

Jennifer Fish distributed copies of new forms prepared by Tara Bamford that will dovetail with the newly adopted Board documents. The Board has updated Site Plan Review, Subdivision and the Zoning Ordinances and new forms were needed. As no members had seen these prior to the meeting, the Chairman suggested that Board members review them prior to the next meeting.

Rep. Moynihan asked if the Application for a Zoning Permit is what used to be the Application for a Building Permit. Tara replied yes.

Scott Rineer asked why certain activities are ratified by the Planning Board and other activities must come before the Board for approval. Commissioner Brady replied that the authority to issue building permits where the applicant complies with all the regulations was delegated to an administrative official.

OTHER BUSINESS:

Tara stated that the Board will also need to look at other protected districts and their boundaries, especially Critical Wildlife Habitats and Fish Spawning Areas (PD3 and PD4). Ed Mellett agreed to work on these with John Scarinza. Tara stated she would set up a meeting.

Jennifer distributed copies of the most recent edition of Planning Board statutes.

RATIFICATION OF BUILDING PERMITS:

Ed Mellett made the motion, seconded by Mark Frank, to ratify the following permit applications/extensions as approved by the Chairman.

Permit #483: Millsfield – Mark Gemmiti – 8' roof overhang and deck extension

Permit #484: Odell – Jody Reynolds – Replacement of 6'x4' outhouse

Permit #485: Millsfield – Mark Sandoe – 24'x28' garage

Permit #486: Millsfield – Jesse Bushaw – 10'x10' Wood Storage Bin

Permit #442: Gosselin request for extension.

There were no questions or discussion. Board members all voted in favor of the motion.

TIME AND DATE OF NEXT MEETING:

It was agreed that the next meeting will be held on April 18, location to be announced.

ADJOURNMENT:

Fred King made a motion to adjourn. Mark Frank seconded the motion. All voted in favor.

Meeting adjourned at 8 PM.

Respectfully submitted,

Suzanne L. Collins, Board Secretary