

COÖS COUNTY PLANNING BOARD
Lancaster, NH
August 2, 2017

Present from the Board: John Scarinza – Chair; Fred King – Vice Chair; Jennifer Fish – Clerk; Commissioner Tom Brady, Ed Mellett, Mike Waddell, Scott Rineer and Rick Tillotson; alternate Tom McCue, and Board Secretary Suzanne Collins.

Also in Attendance: Tara Bamford, North Country Council; Art York, York Land Services; Edward and Bernie Carrier, Pond Brook Estates; Ed Brisson, Dixville Capital, LLC; Jennifer Barnhart, Androscoggin District Ranger White Mountain National Forest; members of the press and public.

John Scarinza, Chair, called the meeting to order at 6:00 PM.

APPROVAL OF MINUTES OF JUNE 28, 2017:

Fred King made a motion to approve the minutes of June 28, 2017 as distributed. Ed Mellett seconded the motion. There was no discussion and the minutes were approved by unanimous voice vote.

PUBLIC COMMENTS NOT RELATED TO AGENDA ITEMS:

Ed Brisson attended the meeting to present several applications for the Balsams Project in hopes that construction can begin this fall. He explained that one is an application for lot line adjustment – Dix-Hampshire Parcel and the remaining three seek approval to allow construction of the Lake Gloriette House and Phase 1 infrastructure. He submitted a letter from Les Otten requesting the Board's cooperation in expediting the applications for the Lake Gloriette House. The goal is to re-open The Balsams Resort in 2018. Mr. Brisson stated that Mr. Otten will attend the August 23rd meeting.

RATIFICATION OF BUILDING PERMITS:

Rick Tillotson made a motion to ratify the following building permits. Scott Rineer seconded the motion.

#477:	Iris Emerson	Odell	Replace Existing 5'x21'x6' dock
#478:	AVRRDD	Success	Construction of a valve vault at the landfill
#479:	Martin/Jean Lorrey	Dix Grant	Enclosure of 8'x5' back porch.

John Scarinza stated that #477 was approved with the condition that the dock is located in the same place as the old dock; #479 was approved with the condition that the enclosure will not add any bedrooms.

There being no further discussion, all members voted in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE:

Tara Bamford distributed copies of the Zoning Ordinance documents – one red lined and a clean version.

Chairman Scarinza opened the public hearing at 6:15 PM as advertised.

The Coös County Planning Board will hold a public hearing on Wednesday, August 2, 2017 at 6:15 PM at the North Country Resource Center in Lancaster, NH to receive public comment on several proposed amendments to the Zoning Ordinance for the Unincorporated Places of Coös County. The purpose of the amendments is to:

1. Clarify the process regarding Zoning Permits, Conditional Use Permits, and Protected Districts.
2. Require Best Management Practices to protect soil and water.
3. Add Accessory Dwelling as a permitted use where single family dwellings are permitted, and add definition.
4. Clarify jurisdiction over private development activities on public lands by converting Non-Jurisdictional areas to Management Districts, and providing special grandfathering provisions for existing uses.
5. Clarify and simplify the Aquifer Protected District.
6. Clarify which water bodies are in the Shoreline Protected District and reduce from 200 feet from normal high water mark to 100 feet.
7. Replace excavation standards with reference to RSA 155-E.
8. Add new section on Cluster Developments.
9. Add new section on Stormwater.
10. Replace soil-based lot size with 1 acre minimum (or greater if required by NHDES) and maximum density of 1 dwelling or other principal use per acre.
11. Remove content-based sign regulations.
12. Address several other minor inconsistencies and needed clarifications and remove definitions for unused terms.

John opened the discussion with some background information for members of the public. The Zoning Ordinance was initially adopted some 30 years ago. The Board recognized the need to bring the document up to date. There have been changes in state statutes and Best Management Practices.

He noted that one letter was received from the NH Department of Natural and Cultural Resources, Division of Forests and Lands. As stated in the letter, *“The Department wants to ensure that the Planning Board is aware of RSA 674:54, Governmental Land Uses, and that the proposed changes to the zoning ordinance are written to be fully consistent with this law.”* Tara agreed that it would make sense to making a note of RSA 674:54 II-a in the ordinance which states, *“Any use, construction, or development of land occurring on governmentally owned or occupied land, but which is not a governmental use as defined in paragraph I, shall be fully subject to local land use regulations.”*

John asked for comments from the public:

Edith Tucker – Berlin Daily Sun: People have asked if there is any place that shows the general goals for the Unincorporated Places. John Scarinza replied that what guides the Zoning Ordinance is the Master Plan. Mike Waddell stated that the whole goal of the rewrite of the Master Plan was to outline the goals.

Jason Reimers – Attorney for Keep the Whites Wild: Proposed article 4.03(b) lists the Overlay Districts. The word “protected” should be capitalized and the PD6 District should be given its full name in 4.03(b) as it appears in 4.03F “Steep Slopes and *High Elevations*”.

He continued that Article 4.03C is the Critical Wildlife Habitat Protected Overlay District (PD3). The stated purpose of the District is to provide critical habitat for boreal wildlife. Mr. Reimers noted that the

term “boreal” is not defined in the ordinance. “Boreal” is also not a habitat category in the Fish & Game Department’s Wildlife Action Plan. He recommended that the Board revise Article 4.03C to incorporate consideration of the Wildlife Action Plan.

Mr. Reimers proposed incorporating some of the provisions and concepts contained in the Large Wind Energy Systems Ordinance into the requirements for Steep Slopes and High Elevations (PD6) whereby a scenic character evaluation is required for proposed projects within 3 miles of a scenic resource as well as a decommissioning plan in appropriate circumstances.

He also noted that the word Ordinance is missing an “n”.

Jennifer Barnhart, White Mountain National Forest: Ms. Barnhart suggested that Board members sit down with her team to discuss how federal lands are regulated. She asked that Board put off the vote on the amendments. Rick Tillotson asked her to explain her particular concerns. She asked how the ordinance pertains to federal lands. Mike Waddell inquired if Attorney Waugh had responded to last month’s question about private activity on federal lands. He asked Ms. Barnhart if there is a federal law similar to New Hampshire’s RSA 674:54; that could remove any confusion regarding development activity on federal lands. He added that he didn’t think the Board needed to address her particular concerns at this meeting. Ms. Barnhart stated that the federal government has a supremacy clause. She added, *“Everything we have on federal lands is for government purposes, even Wildcat and Camp Dodge.”*

Dave Govatski: Mr. Govatski asked about being able to ask for further clarification. John Scarinza replied that if there are only minor changes, the Board will send the amendments onto the County Commissioners. If the Board makes major changes, then it might be necessary to hold another public hearing.

John Scarinza closed the Public Hearing at 6:40 PM.

NEW BUSINESS:

Pond Brook Estates – Millsfield: In accordance with RSA 676:4 an application for a nine lot subdivision was submitted by Pond Brook Estates LLC/Bernard and Edward Carrier off Signal Mountain Road, MI Map 1623, Lot 009.

The Chair recognized Art York, Licensed Surveyor to present the plan. Mr. York explained that this 9 lot subdivision is Phase II of the Pond Brook Estates property. Seven of the lots are 5 acres in size and 2 of the lots are close to 7 acres in size. The maximum slope is 7%. He added that these lots all exceed the minimum requirements. Mr. York stated that he has a road profile. John Scarinza asked if it is a road design. Mr. York replied that the NH Standards for Rural Road Design will be utilized. The final gravel has not been applied. John Scarinza stated that it was a logging road and isn’t final gravel pre-mature? Ed Mellett asked if the owners had obtained a permit from the state for that road. Mr. York replied they had not because there was less land disturbance than required by the Alteration of Terrain Permit.

Rick Tillotson asked if the water line that will supply The Balsams ski area traverses this land. Mr. York replied that it does not.

John went through the subdivision checklist item by item. Mr. York noted that on the drainage system, there are 4 culverts – 2 18’s and 2 15’s. Regarding the profiles and cross sections, Mr. York reiterated that the NH Rural Road Standards will be followed.

John noted that test pits/perc tests will require a waiver from the Board. When asked if there are deed restrictions, Bernie Carrier replied that the owner's association document has been recorded at the Registry of Deeds.

John asked about open space and Mr. York replied, "*The remaining 500 acres*".

Mr. York stated that there are no water courses on this section of the property. Any wetlands are shown on the north edges. The remainder of the subdivision has no wetlands at all.

The subdivision checklist requires a scale of 1"=100'. Mr. York explained that in order to fit the subdivision on the plat, it was necessary to change the scale to 1"=150'.

Mr. York noted that Carrier Lane on the plan is currently an ATV trail. Mike Waddell noted that on the northern lots, you're either on a mountainside or in a swamp.

John Scarinza noted that Lot 9.1 is steep and Lot 9.3 has some challenges.

John asked if the Board wants to require test pits. Rick Tillotson wondered if a buyer would assume that the Board had required test pits. Bernie Carrier replied that all the lots are larger than 5 acres; therefore, test pits are not required by the state. John Scarinza replied that test pits aren't that big a deal to do.

Fred King stated his concern that we approve lots that a buyer can't get to. John replied that it will be a condition of approval.

Mr. York presented an official request to waive the test pit requirement due to the fact that all lots exceed minimum lot size requirements.

Mike Waddell made a motion to approve the requested waiver for test pits. Scott Rineer seconded the motion. Commissioner Brady asked if they can sell lots without test pits. Ed Mellett replied that it will be up to the buyer to do the test pit as the state will require it for septic approval.

There being no further discussion on the Waddell motion, the Chair called for a vote and all members voted in favor of granting the waiver.

Rick Tillotson made a motion to approve changing the scale of the project from 1"=100' to 1"=150". Mike Waddell seconded the motion. There being no discussion, all voted in favor.

Mike Waddell asked if the Board has enough information on the road. John Scarinza stated that the Board needs a design for the road. Tom McCue stated that the road has been built on an ATV trail and it should be clearly delineated on the plan. Bernie Carrier stated that the ATV trail came after the logging road. Edward Carrier stated that the road has been engineered. In response, John Scarinza asked that he provide the engineered plan to the Board. The Board needs a road design. Mike Waddell asked that once the Board sees the design, who will review it for the Board? It may require hiring a civil engineer to ascertain that the culverts are installed properly.

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Mike Waddell asked if the Carriers own Signal Mountain Road. Bernie Carrier replied that they do and that there is a Right of Way for logging purposes. Commissioner Brady asked if there is a deeded ROW for the ATV trail and if there is any protection to keep the trail there after lots are sold. Tom McCue wondered how buyers would be informed that their road is also a trail. It should be acknowledged on the plan that the road is a trail.

John requested that the owners provide the Board with a copy of the covenants and Association agreements. John Scarinza also stated that the plan should show that it is a private road and that there is no expectation that the County will be expected to provide any services.

Mr. York stated that he will leave the document on drainage with the Board. Fred King stated that the Board has an obligation to require that the owners build the road to certain standards. Commissioner Brady asked if there will be water coming off from the steep driveways to Route 26. Ed Carrier replied that maintenance of the road is all spelled out in the Association agreement.

John Scarinza stated that the Board needs a good road design plan; the plan needs to show driveway locations and where the water will go.

Mike Waddell informed the owners that once the Board accepts the application as complete, it starts a 65 day clock. The Board needs the engineered road before accepting the application as complete.

Mike Waddell made a motion to continue the review of the Pond Brook Estates subdivision application awaiting further road information to August 23rd. Ed Mellett seconded the motion. All voted in favor.

OLD BUSINESS:

Discussion and Approval of Proposed Zoning Ordinance Amendments

1. John Scarinza stated that the grammatical issues/typos will be corrected.
2. Regarding the suggestion to add "High Elevation" to Section 4.03 Protected Overlay Districts (PD), Subsection (b), all agreed to make the language adjustment.
3. Tara suggested adding a statement regarding RSA 674:54. In reply to the Keep the Whites Wild recommendations regarding habitat overlays, this will be looked at when the maps are updated next year. She added that the Large Wind Ordinance was not a part of the review. Rick agreed.
4. Tara stated that she does not recommend referencing the Wildlife Action Plan. Ed Mellett agreed and stated that it is a new huge plan. When Fish & Game is asked for their input on the maps, then their ideas can be incorporated.
5. Tara asked Jennifer Barnhart to provide more information on the supremacy law. John Scarinza stated that he prefers more of a dialogue with the feds on any projects; that way they don't have to invoke the supremacy clause. He stated he didn't know how to put that in the ordinance. Tara replied that the state law refers to both federal and state lands – it's governmental. Rick Tillotson said he would surely welcome an opportunity for the Board's attorney to discuss with a federal attorney what constitutes a government purpose on federal lands. Tara suggested that as a result of these legal discussions, perhaps an MOU could be the result.

Dave Govatski inquired about the timeline for updating the zoning maps. John Scarinza replied that it will be a big project. The Board will need to get estimates for the cost of the work prior to budget time.

Mike Waddell made a motion to send the amendments on to the Commissioners after the grammar is corrected and the reference to RSA 674:54 is incorporated. Rick Tillotson seconded the motion. All members voted in the affirmative.

TIME AND DATE OF NEXT MEETING:

It was agreed that the next meeting will be held on August 23, 2017 at 6 PM in Lancaster.

ADJOURNMENT:

Rick Tillotson made a motion to adjourn. Scott Rineer seconded the motion. All voted in favor.

Meeting adjourned at 7:45 PM.

Respectfully submitted,

Suzanne L. Collins
Secretary