

COÖS COUNTY PLANNING BOARD
Coos County Nursing Home, Berlin NH
June 19, 2019

Present from the Board: John Scarinza – Chair; Jennifer Fish – Clerk; Mike Waddell, Rep. Troy Merner, Scott Rineer, Ed Mellet and alternate Tom McCue and alternate Mark Frank.

Also in Attendance: Tara Bamford, Planning Consultant; Earl Duval, Duval, Klaskick & Thompson LLC; Wayne Presby, Mount Washington Railway Company; William Gregsak, Gregsak Engineering, Inc.; Christopher Meier, Cooper Cargill Chant, P.A; Howie Weyms, Mt. Washington Summit Road Company; Phil Bryce, Director of the NH Division of Parks and Recreation; Patrick Hummel, Mt. Washington State Park Director; members of the public and press.

PUBLIC HEARING

PUBLIC NOTICE
COÖS COUNTY PLANNING BOARD

Notice is hereby given in accordance with RSA 676:4 that the Coös County Planning Board will meet on Wednesday, June 19, 2019 at 6:00 p.m. at the Coos County Nursing Home at 364 Cates Hill Road, Berlin, N.H. to hold a Public Hearing on the application for Site Plan Review submitted by Mount Washington Railway Company for the construction of track and trestle and platform on the Mount Washington Summit in Sargent’s Purchase.

John Scarinza, Chair opened the public hearing at 6:05 pm. Chairman Scarinza asked Attorney Earl Duval who is representing the applicant to clarify if the Cog Railway is the landowner or if the landowner is the State of NH. Attorney Duval responded that the railway has a right-of-way and the landowner is the State of NH.

Attorney Duval made a brief presentation explaining the application and its purpose. Attorney Duval stated that he recently met with Phil Bryce and Patrick Hummel to discuss the plan and they made some proposed changes that were incorporated into the site plan drawings.

Chairman Scarinza asked for comments from the public in support of the application. David Govatski, Jefferson NH stated that he wanted clarification of a building with the label of “Observatory” on page 2 of the drawings. He stated that he believed that building to be the “Yankee Building” and not the Observatory. Attorney Duval agreed that it was error and that it the correction would be made. There were no comments in support of the application.

Chairman Scarinza asked if there were any comments not in support of the application. Attorney Christopher Meier representing the Mount Washington Summit Road Company submitted a 9 page written objection to the board (Document on file). There were no further comments.

Chairman Scarinza asked if representatives from the State of NH had any comments. Phil Bryce stated that he is taking no position either for or against the site plan application. He met with Attorney Duval and Mr. Presby recently to discuss the plans. Director Bryce stated that he was pleased that the applicant listened to some of his concerns and was willing to incorporate his suggestions in the site plan. Director Bryce stated that his agency is still working through the plans. Director Bryce referenced the NH Attorney General’s Office Opinion that was authored

by Allan Brooks regarding the ownership of the summit and that the agency's attorney concurs with Mr. Brooks. Director Bryce stated that his agency with assistance from an attorney is trying to ensure that the use of the right of way does not unreasonably interfere with the use of the landowner. Director Bryce stated that that question can't be answered today and he can't make any commitment to sign off on the plan until it is reviewed with the Attorney General's Office.

Attorney Meier stated that the Mount Washington Summit Road Company was not included in any discussions of the site plan. He stated that he would like to be included in any further discussions.

Mike Waddell asked if the Railway Company has an exclusive easement or do others have rights in that easement? Director Bryce responded that it is the view of the State that it is not an exclusive easement. Tara Bamford asked if the Summit Road had any rights to the same easement. Director Bryce responded that he was not sure if the turnaround for the carriages overlaps this area or not. Howie Wemyss responded that the Summit Road also had the right-of-way for pedestrian access.

Chairman Scarinza closed the public hearing at 7:03 pm.

The regular meeting was opened at 7:03 pm. Chairman Scarinza appointed Tom McCue for Fred King and Mark Frank for Tom Brady.

PUBLIC COMMENTS NOT RELATED TO AGENDA ITEMS

None

APPROVAL OF MINUTES OF MAY 8, 2019

Mike Waddell made a motion to approve the minutes of May 8, 2019 as distributed. Ed Mellet seconded the motion. There was no discussion. All approved.

NEW BUSINESS

a. Notice is hereby given in accordance with RSA 676:4 that the Coös County Planning Board will meet on Wednesday, June 19, 2019 at 6:00 p.m. at the Coos County Nursing Home at 364 Cates Hill Road, Berlin, N.H. to hold a Public Hearing on the application for Site Plan Review submitted by Mount Washington Railway Company for the construction of track and trestle and platform on the Mount Washington Summit in Sargent's Purchase.

Chairman Scarinza stated that there is a requirement that all landowners sign the site plan application and the State of NH is not prepared to sign at this time. Mike Waddell stated that the application is not complete and the process must be started over. Scott Rineer asked if the planning board had jurisdiction over the State of NH? John Scarinza said that yes it does because this is a commercial enterprise and not a governmental purpose. Scott Rineer asked if the board was going to enforce all commercial projects on government owned land and John Scarinza responded absolutely. Tara Bamford asked if the applicant would be willing to withdraw the application until the State of NH is willing to sign as the landowner. Tara also explained that the Board had another month to make a decision on the application to see if the State would be ready by then. Attorney Duval requested a 5 minute recess. Chairman granted his request.

The meeting resumed at 7:17 pm. Attorney Duval stated that the applicant recognizes that there is more work to be done with the State of NH and withdraws the site plan application. Chairman Scarinza recommended to the applicant that they apply for a conditional use permit so the process could happen concurrently with the site plan application process.

b. *Mount Washington Railway Company memo dated May 23, 2019*

The memo submitted was requested by the Board at the last meeting in regards to 3 lean-tos that were constructed adjacent to the railroad tracks.

Ed Mellet commented that he didn't think that a site plan review was required but a zoning permit should have been applied for. Mike Waddell did not agree with the Attorney Duval's interpretation of the definition of primitive recreation in his memo.

Chairman Scarinza read allowed the definition in the zoning ordinance:

- 3.65 Primitive Recreation: Those types of recreation associated with non-motorized travel, including fishing, hunting, hiking, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, snowshoeing and mountain biking.

Chairman Scarinza stated that he thought that site plan review was required after reviewing the definition. Mike Waddell made a motion to require site plan review for the 3 lean-to structures constructed on the Mount Washington Railway Company property. Mark Frank seconded the motion. The motion passed 7-1 (Mellet). Chairman Scarinza asked the Attorney Duval if he would like to have a conceptual discussion regarding what the board would like to see in the site plan. John stated that it would be important to explain the purpose of the structures. He stated that a good sketch would be important with the setbacks clearly identified. Attorney Duval distributed a photograph of the structures to board members. Chairman Scarinza asked to see information about securing the structures so they don't blow away. Mr. Presby stated that the structures are for train customers, hikers, skiers, etc. He stated that the AMC utilized the structures as well.

RATIFICATION OF ZONING PERMITS

None

OLD BUSINESS

- a. Balsam's Application Status T. Bamford

Ms. Bamford distributed a status report of the Balsam's applications. (Report on file). Ms. Bamford said she would contact a Balsam's representative about recording the PUD agreement and getting an updated letter from the State of NH regarding the Bayroot Lands subdivision. Ms. Bamford will also draft the Lake Gloriette House Site Plan Notice of Decision and consult with Attorney Christine Fillmore regarding the draft.

Scott Rineer asked about the status of updating PD zones on the zoning maps. Chairman Scarinza agreed that the board needed to get back to working on the project. He suggested the board would work on that in the fall months.

TIME AND DATE OF NEXT MEETING

There was no future date set.

ADJOURNMENT

A motion was made by Ed Mellet and seconded by Mark Frank to adjourn at 7:44 pm. All approved.

Respectfully submitted,
Jennifer Fish, Clerk

Pending Approval