

PLANNING BOARD

NOVEMBER 3, 2009

MEMORIAL BUILDING

7:00 P.M.

The following are to be considered draft minutes only until approved by the Board at their next meeting.

Present: Chairman Kevin Lee, Ken Jacques, Mike Howard, Darrin Patten, Andy D'Amico, Peter Keene and Selectman Representative Don Hill. B. Manning was also in attendance.

The meeting was called to order at 7:05 p.m.

Kevin Lee reported there would not be a joint meeting with the Zoning Board, as RSM did not apply for a Special Exception. Don Hill reported he has gotten feedback that some members of the Zoning Board did not want to hold a joint meeting, and would prefer to discuss a Special Exception request at their own meeting. The Board discussed that joint meetings are a courtesy and cost saving measure so an applicant does not have to pay duplicate fees and the professionals do not have to attend multiple meetings and present repetitive information.

RSM @ Camp Sunapee: At 7:15 p.m., Kevin reopened the continued Site Plan Review Hearing for RSM @ Camp Sunapee. Present: Victor and Inessa Rifkin camp owners, and their Attorney Susan Hankin-Burke; B. Manning, Brandt and Donna Denniston were also in attendance.

Attorney Hankin- Burke presented a written summary to the Board reviewing the process the Rifkin's have been through. Ms. Hankin-Burke explained the applicant has been in the process of bringing the existing camp up to current camping standards to ensure continued viability for their operations. In March 2009, the Board of Selectmen directed the Rifkins to the Planning Board during the building permit review process. They have been in the process of complying with the requirements of the Planning Board since then. At the October 19, 2009 Planning Board hearing, the Planning Board altered the process and requested that the applicant seek a Special Exception. This appears to have been done as a result of a letter from the ZBA Chair. Ms. Hankin-Burke felt the opinion of town counsel appeared to be based on generic information and did not represent what is taking place with this application. She also addressed concerns regarding conflict of interest since the Zoning Chair is also an abutter. She reported the applicant has been working in good faith to deliver what the Planning Board has requested. She stated that it is unreasonable for the Planning Board to require a new procedure at this point, one that is not spelled out in the zoning ordinance, and done as a result of a suggestion by an abutter.

Ms. Hankin-Burke explained the camp is a pre-existing non-conforming use. The property has existed as a camp and is grandfathered as a camp. The use of the property cannot be taken away. The Zoning Ordinance allows the expansion of pre-existing non-conforming uses and there is no substantial expansion taking place here.

Don Hill reported this process started when a citizen came to the office to see if a building permit had been issued for the three cabins that were placed on the property, and has escalated into the current situation.

B. Manning, shared case law findings he has reviewed regarding this topic. He questioned the opinion of the LGC attorney in the statement that a new building changes the scope of the business in this instance. The issues were discussed.

Kevin Lee questioned if the Board was comfortable moving forward with the Site Plan Review.

Ken Jacques reported he spoke with an attorney at the Local Government Center following the October 19 meeting and was advised the Planning Board should move forward with the Site Plan Review process. The Planning Board has no authority to require a Special Exception. That authority comes from the Board of Selectmen. Ken stated he has no problem going forward with the proposed site plan.

Board members spent some time discussing their review of the provisions of the Zoning Ordinance. It was their consensus the proposed use is not a substantial expansion of the existing business. All members were in agreement to move forward with the Site Plan Review process.

The plan presented on October 19 by the Rifkins was reviewed and discussed. Ms. Hankin-Burke reported the Rifkins are seeking Site Plan Approval for 3 existing cabins, 3 additional cabins, to replace staff accommodations in the farm house. In addition they are proposing to use the existing chalet as dwelling for a manager and a build a three-bedroom single family home for themselves. There will be no substantial increase in what exists for camp use. There will be no increase in parking. The number of campers has not changed. The amount of time the camp is in session has been consolidated into a 4 week session instead of the previous 8 week session. The Rifkins are making improvements to the existing business, a natural evolution in continuing a business. The expansion is not making any non-conforming structure, more non-conforming. The new home to be built on the property will replace the existing farmhouse as a residence. They are not increasing the residential use. The existing farmhouse will be used for activities. The existing chalet will become the place for a maintenance person to live, probably seasonal, for at least six months of the year. The proposed single-family 3 bedroom home will be the only full-time residential building on the property. There are three cabins currently on the property used for staff and the applicant proposes adding three more cabins.

Kevin stated there have been concerns addressed by the abutters regarding the visibility of the cabins from the road. He questioned if the cabins could be screened or relocated? Mrs. Rifkin stated the cabins allow for independent dwellings and provide separation of the staff and campers. The location of the cabins allows for supervision and protection of the campers by placing the adults near camp entrances. Don stated it appeared the cabins were located in a fairly level area, and placement did not require a lot of disturbance of the topography. Kevin suggested and evergreen buffer be planted in order to mitigate the visibility of the cabins from the road. Mr. Rifkin agreed that would be possible.

Mr. Rifkin reported he has met with Brad to discuss tree removal at the proposed new entrance. Darrin stated there is concern with a third driveway entrance. A driveway permit has not been issued. Brad has been waiting for the Planning Board's direction regarding the Site Plan. Kevin

felt the Board could move forward with acceptance of the plan, with location of the proposed driveway contingent on Brad's determination as a condition of approval.

The Board reviewed the site plan checklist. Board members agreed the plan presented October 19 has satisfied what the Planning Board has requested.

The Board reviewed conditions of approval for the site plan:

1. The driveway accessing the staff/activity cabins must meet with the Road Agent's approval, otherwise access must be made from the existing access drive.
2. Evergreen screening will be maintained between the staff/activity cabins and Deer Hill Road.

A motion was made by Ken Jacques to approve the Site Plan Review Plan as presented, subject to the above conditions. The motion was seconded by Andy D'Amico and unanimously approved.

Star Lake Properties: At 7:50 Kevin opened the continued hearing for Star Lake Properties Present: Star Lake Manager Todd Richardson; Surveyor, Pierre Bedard; Attorney Connie Lane and Attorney Richard Uchida; and Brandt and Donna Denniston. John Chiarella arrived at approximately 8:30 following his attendance at the Zoning meeting.

Pierre Bedard reviewed the revised proposal. Star Lake Road is now showing a 60 foot easement so future generations would have adequate area to change the layout of the road if necessary.

Pierre reviewed areas they wish to have clarified by the Board:

1. It is not clear from past minutes whether the Planning Board ever formally accepted the subdivision application. Star Lake would like to have that process on record. Darrin stated he felt it was agreed between the Board and the applicant that the application acceptance process was pended to all them to work out the details with the road issues due so as not to enter into the 90 day window approval process.
2. The Planning Board needs to make clear the length limit for the dead-end road is being waived as has previously been discussed.
3. The Planning Board needs to waive the frontage/access requirement so the lot that obtains frontage off Stryker Road be approved to provide for the access to come off Star Lake Road.

Mike questioned if this was an option or requirement. Pierre explained the most logical site for a house due to the topography of the lot is off the Star Lake Road access.

The Board agreed the notes from the site visit would be entered into the minutes of this meeting, and are as follows.

Star Lake Farm

10/18/09 - 9:00 a.m. site visit

Present: Mike Howard, Damn Patten, Ken Jacques, Dallas Patten - Fire Chief, Todd Richardson — Star Lake Farm Manager, Pierre Bedard — Surveyor, John Trachy — Abutter

Purpose of visit was to walk the road to review the current condition and appropriate requirements for improvement to Star Lake Road. These improvements would allow for the subdivision of one lot and access two others with frontage access off of this road. The road would be recommended to be discontinued as a class VI road along with the beginning 100' (+/-) of class V road including the bridge. It would then be maintained as a private road by Star Lake Farm.

The improvements are as follows beginning at Robie Corner:

-Upgrade four way corner to soften the turns and allow for end of road turn around. This includes the first 100' of Schoolhouse Road and Nichols Hill Road.

-The culvert at the upper end of Star Lake Road will be moved closer to the corner so that the bank can be cut back and the road may be made wider. A few trees can be removed on the West Pastures side across from the sugar house and the bank cut back allowing for a wider roadway. The upgrade of this section, other than the four way corner, would be a requirement prior to any building permits being issued for the three lots that are reserved for the future. This is to be noted in the subdivision plat and should be noted in the deeds.

-The road from the courtyard to West Pastures will be graded to soften the crowning of the road and making the shoulders not as sharp therefore widening the traveled way. The large leaning pine tree is to be removed.

-A road will be cut from the barnyard to the Star Lake Road that will allow an in and out access to the hydrant system located in the yard. This road cut is to be at less of an angle than indicated by the red ribbon flagging.

-The piping from the cisterns to the hydrants will be upgraded to 6" water main from the 3" that exists now.

-Any houses to be built on the reserved future lots will meet the current recommended fire suppression requirements at the time of construction.

-From the main gate to the bottom of the pitch, including the curve, the following will be done:

The culvert at the lower driveway will be relocated to direct water into the woods and away from the drainage ditch.

If adequate depth can be achieved, a culvert will be added to cross the road and unload into the woods to the right hand side at the curve and above the pullout.

The inside of the curve will have some of the trees cut and the smaller brush removed to improve the line of sight down (or up) the hill. The banking on the inside of the curve can then be cut back and the depth of the ditches lessened. The road can then be made wider.

It should be noted that during the visit the 16 feet number was mentioned many times. This is to be the minimum road width meaning travelled way, not including the shoulders. Wherever possible, the 18 feet of travelled way plus the shoulders and ditching will be constructed.

Pierre stated the second paragraph “*These improvements would allow for the subdivision of one lot and access two others with frontage access off of this road.*” it should be noted that the third residence will obtain its access from Star Lake Road and not from its frontage. This is an existing lot with frontage obtained from Stryker Road as part of the merger. Star Lake would like to be sure the Planning Board formally votes to waive the frontage/access requirement for this lot.

Kevin reviewed the application checklist:

Todd stated in order for them to justify moving forward with work for the easement, they would like to see conditional subdivision approval which would also be contingent on discontinuance of the road. A conservation easement deed would be executed once the road discontinuance and the subdivision have been accepted. Star Lake has no problem with a restriction that there would be no more than three additional houses being serviced by Star Lake Road.

Andy D’Amico moved to accept the application, seconded by Mike. The motion passed by the affirming vote of 6 members. There were no objections.

Lengthy discussion followed regarding the coordination of conditional approval of the subdivision, discontinuance of the road, issuing a public easement for the discontinued roads and the execution of a conservation easement deed. It was felt that a large part of the easement language can be determined before Town meeting, but it is most likely going to be impossible to have all the work on the ground done and mapped before then. Star Lake is proposing a minimum of 1500 acres for the conservation easement, dependent on the final results of the property survey. The exclusionary areas around the existing buildings as well as the three proposed additional house sites will need to be determined before the total amount of acreage in the easement and exclusionary areas are determined. Todd indicated Star Lake would not pursue the subdivision and conservation easement if the road discontinuance is not approved.

Issues regarding the language for a public access easement for the discontinued roads, and maintenance of those areas followed. Board members felt these issues could be worked out between Star Lake attorneys and town counsel, with recommendations given to the Planning Board and Selectmen regarding how best to proceed. Planning Board members indicated they

are in favor of moving this proposal forward. They propose public information presentations for residents prior to Town Meeting.

Connie Lane discussed the following points to be completed:

- Waivers for town standards need to be approved by the Planning Board. Any waivers will need to be referred to in documentation of the subdivision and easements.
- The Planning Board needs to review the road plan to see if it follows the recommendations made at the site visit and the Board's requirements.
- Approval by the voters for discontinuance of the roads.
- Conservation areas and easement exclusionary areas will need to be determined and shown on the plan. The proposed terms of the conservation easement need to be presented to the Board.
- The terms for the proposed easement for the use of the roads need to be presented and accepted by the Town.
- The Planning Board needs to waive the requirement for one of the three additional house sites to acquire its access off Star Lake Road instead of through the frontage off Stryker Road.
- The maximum road length requirement for a dead end road needs to be waived.

Discussion continued. The easement area for public use of the discontinued portions of the Class VI roads would be what is presented in the subdivision plan, and is what exists now with a width of up to 15'. It will not be the responsibility of Star Lake to maintain the roads. Maintenance rights will be given to the snowmobile club or other non-profit will be allowed to maintain the roads. The easement will allow for access by emergency vehicles. Members present discussed their concerns with making sure the trails remain opened and maintained, and who would be responsible for doing so. The Town would have the right to keep their own easement open. Todd did think it might be possibility that Star Lake would be willing to attend to fallen trees and blow down on an annual basis. Star Lake will be responsible for gating and signage, and that should be reflected in the road easement. It was decided that the attorneys would work on the terms of the easement and make recommendation to the Planning Board and Board of Selectmen.

Mike Howard then entered a motion to continue the public hearing to November 19, 2009 at 8:00 p.m. at the town office, seconded by Andy D'Amico and unanimously approved.

Ordinance Work Session, Continued: At 9:15 p.m. Vickie Davis from the Upper Valley Lake Sunapee Region Planning Commission met with the Board to review updated draft information regarding proposed lighting ordinance, noise ordinance, and driveway regulation amendments to the existing Zoning Ordinance. Vickie will work on amending the Zoning regulations with the proposed material. The Planning Board agreed to hold another work session on December 3 at 7:00 p.m. Vickie discussed timing for the warrant process, noticing and holding public hearings.

The Board voted to adjourn at 9:55 p.m.

Respectfully Submitted,

Janet Roberts
Recording Secretary