



WATERVILLE VALLEY PLANNING BOARD
Summary of the Minutes for the
Regular Planning Board Meeting
Held on Thursday August 11, 2016 at 8:00 am
FINAL

Minutes of Waterville Valley Board

- **Chairman Terry Waite called the meeting to order at 8:00 am**
- **Roll Call and seating of alternates**
 - Full members in attendance: Chairman Terry Waite, Cheryl Saenger, Nancy Knight, Bob Guilbert, Harry Notowitz, Ex-Officio Bill Larsen
 - Alternate Members in Attendance: Ray Kucharski, Richard Rita, John Recine
 - Members Absent: Wendi Rathgeber
 - Alternate Members Absent:
 - Alternates Seated: Richard Rita
 - Public in Attendance: Janet Carlisle (Wig-Wag reporter), Bill Cantlin, Michael & Tina Kopell, Tara Bamford North Country Council Senior Planner
- **Review and Acceptance of Minutes from July 14, 2016 Meeting**
 - Approval tabled until September meeting in order for the board to read amendments.
 - *Line 17 Mr. should be Ms.*
 - *Lines 54 & 55 strike first two sentences; Paragraph should start with Mr. Waite said....*
 - *Line 64 Amend to read Mr. Larsen said the board has not made a decision...*
 - *Line 243 amend to show Mr. Waite asked Mark for a packet to review.*
 - *Line 283 amend to read Mr. Waite said he has been approached...*
- **Public Hearings:**
 - NONE
- **New Business**
 - **Site Plan Consultation Tax Map 105-008 ~ Waterville Company (owner)**
consultation on application for winter horse stable
 - Presented by Tim Smith. Last year he approached the planning board for a consultation to place a horse stable on the old fairway. It was determined he needed to obtain a special use permit. Zoning Board of Adjustment (ZBA) approved the special use permit with conditions, and this is more of a temporary use than a development.
 - Mr. Larsen asked if they approved the site plan last year. Mr. Waite answered it was sent to the ZBA. Tim Smith added he did not issue an

38 actual site plan to the planning board. He received the permitting from
39 the ZBA but due to the winter conditions they did not have the sleigh
40 rides last winter. The package presented does not, at this time, include
41 the approval information from the ZBA. This is only for the winter months.

- 42 ▪ There were questions regarding housing the horses and the fencing
43 (electric).
- 44 ▪ The paddock would get set up in November and be removed before
45 May 1st. These are tents which are used for other applications in the
46 summer.
- 47 ▪ Mr. Waite asked Mark Decoteau if this calls for a site plan review since
48 this is a temporary situation. Mark responded this was discussed and the
49 planning board determined they did need a site plan review since it is
50 non-residential use (per planning board regulations). The question is
51 should this be considered a development. If not this does not need to go
52 before the planning board.
- 53 ▪ Mr. Larsen said they have gone through this before. Even if these are
54 temporary structures, like the skateboard park, they should review it. The
55 concept is if they do this more than once (place the paddock on the
56 parcel for housing horses) they should review it. He continued the
57 majority of the information they are asking for is irrelevant; they could
58 waive that. They should hold a public hearing and get comments. Mr.
59 Waite agreed there aren't alterations.
- 60 ▪ Tim Smith showed an overview of the parcel and placement of the
61 paddock.
- 62 ▪ Tim asked the board if this was acceptable as a site plan as described;
63 does this project meet the criteria of a site plan; is it in the best interest of
64 the town that a site plan be approved or should they discuss a waiver
65 option.
- 66 ▪ Discussion on disposal of the manure.
- 67 ▪ Mr. Waite asked Tim Smith to cover his requests:
 - 68 • #1 is this acceptable as an abbreviated site plan.
 - 69 • #2 does this meet the description of a development.
 - 70 • #3 is this in the best interest of the town, and people, to have this
71 as an approved site plan which would be permanent.
- 72 ▪ This is an approved use with the approval of the ZBA. They granted a
73 Special Exception (SE). It is being left up to the planning board on the
74 question of the site plan requirement.
- 75 ▪ Mr. Waite asked the board if they need a site plan review. Mr. Larsen said
76 temporary use if he wants to do this just next winter. They should have a
77 site plan review if they want to have it every winter. Mr. Larsen read the
78 site plan review – regulations are intended to include, but are not limited
79 to, protection of public safety, preservation of natural features to the
80 greatest extent possible ensuring the finished project will have a pleasing
81 effect. These items make this project worthy of debate.

- 82 ▪ Mr. Waite suggested they do have a site plan application process, in light
- 83 of what Mr. Larsen read. He asked that the information from the ZBA be
- 84 included. Mr. Larsen would like to know if there are any proposed or
- 85 existing easements on this parcel and written acknowledgement of the
- 86 developer's responsibility for maintenance and the assumption for liability
- 87 for injury or damages that may occur on any land that may be
- 88 dedicated for public use. Tim Smith said this land would not be used for
- 89 public use. Tara Bamford, with the North Country Council, said this means
- 90 there is no liability on the part of the town. The parcel in question is not
- 91 intended for public use.
- 92 ▪ Mr. Waite said he found the documentation to be adequate. He has
- 93 concerns with the location of the brook on the parcel as snow melting
- 94 tends to make it overflow. Bill Cantlin said this is a natural low area and
- 95 he has never seen this overflow. He has test pits in that area and the
- 96 water table is relatively low. He added it is the perfect retention basin.
- 97 ▪ Mr. Waite reminded the board this was a consultation. Nothing that has
- 98 been discussed was binding.
- 99 ▪ Tim Smith said he shall have the application submitted in the required ten
- 100 days prior to the September planning board meeting.

101
102 ○ **Old Business**

103 ○ **Site Plan Application~ Moose Crossing Townhouses**

104 Tax Map 105-010.25 Brownstone Way

- 105 ▪ There have been no changes since the July meeting. The two remaining
- 106 items had not been received.
- 107 ▪ Mr. Waite said they had discussed, at the July meeting, that perhaps the
- 108 board should be more specific regarding the requirements – whether or
- 109 not they require engineering inspections and what amount might be
- 110 requested for that; and will the board require the bond.
- 111 ▪ Mr. Waite asked the board do they approve the application conditionally
- 112 or reject it.
- 113 ▪ Mr. Larsen proposed they reject the application.
- 114 ▪ Mr. Waite asked the planning board if they have further comment. There
- 115 were none.
- 116 ▪ Tara Bamford suggested they give conditional approval and it not be
- 117 signed and recorded until they have received the security and inspection
- 118 fees. Mr. Larsen said the only problem with this would be the board would
- 119 have to decide if they require the inspections and bonding. They have
- 120 not debated this. He feels the developer has lost interest. Ms. Bamford said
- 121 the applicant could say agreeing to a security with an unknown amount
- 122 might not be reasonable. She has never seen an approval with an open-
- 123 ended conversation about the amount of security.
- 124 ▪ Mr. Waite asked how that could make a difference. Tara said they could
- 125 approve it and not record the plan until an amount is established. Mr.
- 126 Waite continued when a developer plans to start the project he goes to

127 the inspector to get a building permit. Mark said the building inspector will
128 look at what is approved. He would take the plans that have been
129 submitted as a part of the building permit application and compare them
130 to what was approved. The conditions are in the minutes and in the file.
131 Ms. Bamford said the approval would not be final, it would be a condition.
132 The conditions would have to be met before the approval is finalized. The
133 planning board could choose the amount of the security or leave it up to
134 someone else. Since the plan would not be signed the building inspector
135 would not issue a building permit – if the conditions hadn't been met at
136 that point. Final approval is the signature on the plan.

- 137 ▪ Discussion on conditional approvals.
- 138 ▪ Mr. Kucharski stated if they do a condition precedent he would suggest
139 implementing a time limit. In the past they have granted 30 days and
140 often that did not get met. This has been ongoing for about six months
141 and no attempt has been made to get back to the board.
- 142 ▪ Mr. Notowitz said if the applicant felt their request was unreasonable he
143 could have approached the board. Mr. Waite said they have been told
144 the letter would be supplied when the developer chose to go forward.
- 145 ▪ Mr. Kucharski said if the applicant came back they have the materials
146 they need.
- 147 ▪ Mr. Larsen made a motion to reject the application; Mr. Notowitz
148 seconded the motion.
- 149 ▪ All in favor. Application rejected.
- 150 ▪ Notice of Decision to be mailed certified to the applicant, John March of
151 Mountain Mapping.

152
153 ○ **Green Peak (continued)**

- 154 ▪ Resident, Mike Koppel said they had heard nothing would be built within
155 30' of where their home is. He heard the planning board said it could now
156 be 20' He was promised 30' when their house was built. He would like to
157 know what the real story is. This is in regards to Green Peak.
- 158 ▪ Mr. Waite asked Bill Cantlin, in the next phase if there was lot line
159 adjustment. Bill answered there was to be no change nor has any change
160 been proposed.
- 161 ▪ Mr. Recine said the lot line they are asking about is it from the foundation
162 or the front step. The question being where does the 30' start and stop. Mr.
163 Larsen said he believes it is the foundation.
- 164 ▪ Mark said at this time there is no second building being proposed. Mr.
165 Recine said but when that happens they should know what it is.
- 166 ▪ Mr. Koppel asked if they as abutters would be noticed when the
167 application for the next phase is submitted. Mark said yes. Mr. Koppel said
168 the 2nd phase is clearly what the realty company are telling people that
169 this is where the building starts, but if they don't have approval they
170 shouldn't be doing this.

- Bill Cantlin said the sticks in the ground show exactly where the building is planned. Mr. Koppel asked if there is a zoning regulation that states if it can be 20 or 30 feet. The Zoning Ordinance (ZO) does state 30'. It is determined steps would be considered a part of the building.

- **Tara Bamford of North Country Council**

- Mr. Waite reintroduced Ms. Bamford to the planning board. Ms. Bamford's task was to review the zoning and pedestrian village study and make recommendations. She said the zoning could use reviews regarding their uses and definitions.
- Multi-family, for instance, they appear to blind as to whether it's an apartment or a timeshare. Ms. Bamford said she has never seen that before. They draw their lines in a different place than most communities. She recommends not allowing residences in the C1 zone. She would redefine how they talk about those. Create different definitions about residences making it clear that when something is apartment like versus timeshares or condominiums.
- She would make it clear residence means the more resort type i.e. timeshare.
- Mr. Waite said they were going to eliminate residence from the C1 area but many business owners prefer to live in housing over their business. Ms. Bamford said they could make that an SE.
- Mark added he thinks it goes beyond houses. When talking residence it's someone residing year-round. Ms. Bamford said she is suggesting if they created more categories they wouldn't have some of the issues they are running into. Domicile versus not. Mark said that would a large change to how they approach everything here. He used Golden Eagle Lodge as his example as people live there.
- Bill Cantlin added the Waterville Company is interested in developing the C1 area as "hot beds". Lodging without kitchens. Another thing that is fairly common with the bigger hotels, the hot-bed units might be small but the top floor would have penthouse units which are bigger.
- Ms. Bamford said a good move was single- and two-family were only in the village/commercial area; another area where definitions could use help is they talk about two families in two different ways. One is duplex and the other is accessory apartments. They aren't consistent with the new state laws.
- Ms. Bamford wondered why they removed convention facilities; arts/craft shops, schools and dorms out of the VC area. Especially since they do have sports/educational facilities.
- Mr. Waite said there was a lot of discussion when they did those. It had to do with a discussion of schools and dormitories and where they should be allowed. They created a special zoning for that.
- Ms. Bamford said they might want to think about adding it back in with a SE. Mr. Waite said they did leave that in VC but took it out of C1.

- Ms. Bamford said growth would be more conducive to that. For example – if someone wanted to host a ski school in the C1 the argument could be would someone be holding a school event in a hotel. If there is a new activity that could be marketed they don't want to have their zoning be in the way of that.
- In trying to make their zoning clear Ms. Bamford wondered if their minimum lot size was to be a density requirement. It is a decision point for the board. One direction they could consider would be allowing a PUD in every district and allow more than one principle use of a building on a lot in a PUD. That would let someone develop. It would also allow for cluster building and more green space. Right now their zoning is silent.
- They need to make sure there is nothing in their zoning that could be challenged. They would benefit from a land-use attorney. A benefit would be when there are gray areas in an ordinance; boards can become unconfident in standing behind their ordinances. They can easily be bullied into backing down. If their ordinances are black and white it is easier to stand behind what they have.
- Discussion on open space allowances.
- Discussion on parking. Ms. Bamford suggested adding language that puts good protection on parking. Make it clear they don't want to dedicate more village center area to parking.
- Discussion on amending site plan applications.
- Discussion on change of use.
- Ms. Bamford has a lot of comments she would like to see an attorney go over; she would rewrite the amendments but she feels they would benefit from having an attorney review the items. The focus being do they see something in there that would typically belong in articles and association and covenants and aren't enabled under NH law to be in zoning.
- Mr. Larsen brought up having a planner. They don't have anyone to read applications in details. Tara replied most towns don't.
- Mr. Waite suggested using a land use attorney to review what they have and the information Ms. Bamford is suggesting.
- Next step will be for Ms. Bamford to write up all of her comments and Mark will get names of land-use attorneys.
- Ms. Bamford continued they have other options for assistance. A Circuit writer planner is an option. Mark has been talking to the Thornton Planner about providing a day to assist. This would be a shared situation.
- Bill Cantlin shared a proposed zoning change on sign regulations. (copy attached to these minutes).
- Discussion on sign regulations and how a Supreme Court decision affects them.

259
260 ○ **Request for Conservation Commission Planning Board Ex-Officio**

- 261 ■ Mr. Waite makes another request.

262 ■ Mr. Notowitz updated the board that he had a conversation with David
263 Olarsch who wanted to clarify some of the issues with Mark prior to any
264 discussions with the Board of Selectman. The meeting with Mark will take
265 place sometime in September.

266
267 ○ **Green Peak Subdivision approval status (cont'd discussion)**

268 ■ Mr. Waite said Mark put together a package of minutes and approval for
269 the original Green Peak subdivision. There were questions as to whether Bill
270 Cantlin believes the entire four phases have been approved.

271 ■ Mr. Cantlin said that is not the case. He said the submitted items meet the
272 definition of phased subdivision with one lot receiving the final approval.
273 He said he never said it was all approved.

274 ■ Mr. Waite said they are all in agreement that Phase One has been the
275 approved subdivision to which Bill Cantlin agreed. He then said he was
276 trying to demonstrate Green Peak meets the definition of a phased
277 subdivision according to the subdivision regulations. The only thing
278 recorded is the one lot the buildings are located on now.

279 ■ Mr. Waite said the 2nd phase application had been withdrawn and now
280 he wants to submit a plat plan which he refers to as the final application
281 for Phase II. Mr. Cantlin said not right now. He would really like to put up a
282 sign that says Phase II is approved in order to sell future phases. He would
283 like a sign that states future units available. This goes back to the fact this is
284 a phased subdivision. With what they are looking at how does he add the
285 next building onto there?

286 ■ Mr. Waite said basically this is the issue of the sale sign. Mr. Cantlin added
287 there are bigger issues. What is the definition of phased subdivision in the
288 subdivision regulations? Does it require recognition by the planning board.
289 Somehow they miscommunicated on this. It would be nice if they were on
290 the same page if this project does go forward.

291 ■ Mr. Waite asked if there was something preventing him from coming to
292 the planning board with a subdivision application and then come in with
293 a plat plan for recording for Phase II. This way there would be no question.
294 Since he already has 95% of this information. Mr. Cantlin said the
295 information submitted meets the requirements for a submitted
296 application. Requirements for a final plat are different. The question is has
297 the completed application been submitted for the whole subdivision.

298 ■ Mr. Cantlin wants to be able to come in and add phases. He doesn't
299 know what is meant by subdivision approval. Mr. Waite explained they are
300 trying to take a piece of land to put a project on and subdivide it from a
301 larger piece of land. Then in the development of that subdivision they
302 want to do in four phases. They get subdivision approval for that tract of
303 land, show the planning board the entire project and then say they are

304 going to divide into Phase I, II, III and IV; and they will bring in the plat plan for
305 Phase 1 and record that. This way the documents for the association are
306 limited to the plat plan. They would also have approval of the entire
307 subdivision.

- 308 ■ Mr. Notowitz asked that in order for him to have approval for the subdivision,
309 even though he isn't submitting a final plat, does he need to have the exact
310 building locations lined up. Mr. Waite said if it was approved as a whole
311 subdivision that would fix where the buildings are unless it was amended.
- 312 ■ Mr. Cantlin asked what would happen if the measured difference between
313 buildings changed. They need to have some flexibility there.
- 314 ■ Mark asked why wouldn't there be site plan review for II, III and IV. Mr. Cantlin
315 said there should be. It was one of the requirements but they are largely the
316 same for each one.
- 317 ■ Mr. Guilbert said they had an extensive conversation about approving
318 something they don't know what it is going to end up being, with no control
319 what the end result is. Bill Cantlin said it is never anticipated the planning
320 board doesn't have control over a subdivision without knowing what the
321 finished product is going to be.
- 322 ■ Mr. Waite added it is his understanding there is a subdivision approval for the
323 noted parcel, but no subdivision approval for the entire proposed project.
324 There hasn't been an application to get the entire approval. Mr. Cantlin
325 agreed and he doesn't want to subdivide it right now.
- 326 ■ Mark said there is a plan that shows the entire area that was initially
327 submitted. The discussion was when it came time to record, the question
328 came up what are they approving and what will get recorded. There was
329 discussion on the darkness of the lines on the phases. Mr. Cantlin supplied
330 maps with grayed out phases but people still found it confusing. The only thing
331 on the plat that was actually recorded was Phase I. Mark continued the issue
332 they are dealing with, the whole question is on the sign concerns. That makes
333 a difference regarding the sign on the ZO, what is the approved
334 development. The motion Mr. Larsen made on Phase I made no mention of
335 the subdivision. The motion language does state Phase I but doesn't address
336 the phased nature of the entire development leaving no record of what was
337 approved. The plans in the box show the entire tract. There is no language in
338 the approval that talks about a phased subdivision.
- 339 ■ Mr. Guilbert added what he thinks was approved was the first piece. The
340 board had a lot of discussion about something that didn't seem tangible. The
341 plan wasn't a plan. They ended up approving the first phase as they felt that
342 was all they could approve.
- 343 ■ Mr. Cantlin said he has no desire to go back through the whole thing again.
344 He feels there is a lack of communication. The big question is if he wants to go
345 for Phase II what the process is. There is no hurry on deciding that but if he has
346 some presales on that unit he would like to know where he is in the process.

- 347 ▪ Mr. Larsen said there is only one section that mentions phases. They don't
- 348 have anything in the Subdivision Regulations that mentions phases. It's clear
- 349 that once the subdivision is approved they can offer the lots for sale.
- 350 ▪ Mark read "If the applicant intends to submit a final plat (the recorded
- 351 document) on only a portion of the total land to be subdivided the
- 352 application shall cover the entire area of the tract of the entire subdivision
- 353 (this is what was initially done), and shall indicate the approximate outline in
- 354 sequence of those portions of the tract to which subsequent final plats for
- 355 recording will be submitted. Mark said it is really a subdivision that only a
- 356 piece of is being done now. Only a piece is being done and recorded.
- 357 ▪ Discussion on why Bill Cantlin brought in an application for Phase II.
- 358 ▪ Mr. Waite said he thinks the planning board thought Mr. Cantlin supplied with
- 359 them with the information for the first phase and perhaps they misunderstood
- 360 what his intent was. If they have the information they could review as if it was
- 361 an application for the entire subdivision. He asked Mr. Cantlin if that would be
- 362 acceptable. Mr. Cantlin reiterated what Mr. Waite said. Mr. Waite said no
- 363 application, just the plat. He asked Mr. Cantlin if he would be willing to have
- 364 the board come up with requirements, changes or suggestions. Mr. Cantlin
- 365 answered he doesn't want to put more legal money into this.
- 366 ▪ Mr. Larsen added if he got the entire subdivision approved, in phases, he
- 367 would be able to offer all the lots for sale. He's assuming the application
- 368 could be amended. Mark clarified the taxation assessing ramifications. What
- 369 is recorded versus what is approved should be clarified with the assessing
- 370 agent.
- 371 ▪ Mr. Waite suggested using the information that has already been provided as
- 372 an application for a subdivision for the entire parcel. Mark said the decision of
- 373 the previous board was the approval of phase I. Mr. Waite suggested they
- 374 look at the provided material for subdivision approval for the entire area. Mr.
- 375 Larsen said if he got that Mr. Cantlin could change his mind and come back
- 376 to amend that.
- 377 ▪ Mr. Larsen reads from the Subdivision Regulations Section C Final Action
- 378 "Except for minor subdivision, boundary agreements and lot line adjustments,
- 379 for which expedited review is allowed, the board shall require submission of a
- 380 final plat prior for final consideration". He continued if they don't get a plat
- 381 they are violating their own rule. Bill Cantlin said that is only on the part of the
- 382 completed application, not on the final. Mr. Waite added that Paragraph F
- 383 states for a phased or partial application, if the applicant intends to submit a
- 384 final plat plan on only the portion of land to be subdivided.
- 385 ▪ Mr. Waite asked Bill Cantlin if he can attend the September meeting in case
- 386 they have questions. He agreed.

- 387
- 388 ○ **Communications**
- 389 ○ NONE
- 390
- 391

- 392 • **Committee Reports**
393 ○ NONE
394
395 ○ **Tickler Files**
396 ○ Research on lighting
397 ○ (to Old Business September 2016)
398 ○ Town Roads
399
400 ○ **Adjournment**
401 **Mr. Guilbert made a motion to adjourn the meeting at 11:05 am**
402 **Mr. Recine seconded the motion**
403 **All in favor**
404
405 Respectfully submitted,
406 *Mary Pelchat*
407 Planning Board Assistant
408 Waterville Valley Town Office