



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

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, Bob Guilbert, Wendi Rathgeber, Harry Notowitz, Ex-Officio Bill Larsen
 - Alternate Members in Attendance: Ray Kucharski, John Recine, Richard Rita
 - Members Absent: Nancy Knight, Cheryl Saenger
 - Alternate Members Absent:
 - Alternates Seated: John Recine, Ray Kucharski
 - Public in Attendance: Mark Decoteau, Janet Carlisle (Wig Wag rep.), Bill Cantlin, Tim Smith, Matt Hess, Atty. Steve Whitley
 - Mr. Guilbert announced his resignation from the planning board due to moving out of state.
- **Review and Acceptance of Minutes from July 14, 2016 Meeting**
 - Mr. Waite made a motion to accept the regular meeting minutes of July 14, 2016 with amendments
 - Bob Guilbert 2ndsMotion carried by unanimous vote
- **Review and Acceptance of Minutes from August 11, 2016 Meeting**
 - Mr. Waite made a motion to accept the regular meeting minutes of August 11, 2016 with amendments as follows:
 - *Old Business – add Green Peak (cont'd) to applicable section (Line 153)*
 - *Line 307 change affix to fix; make buildings singular*
 - *Line 327 change word "thing" to issue*
 - Bob Guilbert 2ndsMotion carried by unanimous vote

36 • **New Business**

37 ○ **Skate Board Park (expired one-year extension)**

- 38 ■ Mr. Waite reminded the board that at the November 2015 meeting it was
39 decided the skate park, which has been operating on special permission
40 for the last 10 to 15 years, seems to be becoming permanent rather than
41 temporary. The Board decided, at that meeting, some sort of review
42 would be required. A temporary extension was granted for a year to allow
43 them time to prepare a plan. There has been no application to date.
- 44 ■ It is the planning board chairman's position that with no application, and
45 the expiration for the temporary permission being Sept. 2016, this is no
46 longer a planning board issue. Because the board has been providing this
47 special permission they should notify the board of selectmen and the
48 code enforcer that permission is no longer there.
- 49 ■ There are two items involved: #1 is use which has not been approved by
50 the planning board, #2 is the elimination of required parking for Town
51 Square.
- 52 ■ Mr. Waite opened this to discussion by the board.
- 53 ■ Ms. Rathgeber asked if the mountain received a reminder. They have
54 done this yearly but no reminder was sent this year.
- 55 ■ Discussion on reminding the mountain about this issue.
- 56 ■ Mr. Larsen asked if anyone remembered why this became an annual
57 review. Mr. Kucharski said he recalled that due to the critical parking spots
58 they were supposed to remove the jumps in the winter. They kept making
59 the jumps bigger and they stopped being portable. Mr. Waite added the
60 park was there and it was realized they were taking up these parking
61 spaces but the jumps were useful and giving kids something to do.
62 Because it interfered with Town Square parking spaces they really
63 couldn't be given approval. It was decided it was a good thing and
64 temporary allowance was granted.
- 65 ■ Waterville Company didn't have a problem with the parking spaces
66 being used for this purpose.
- 67 ■ Mark DeCoteau said they didn't have the camps this summer due to the
68 lack of staffing.
- 69 ■ Mr. Larsen said the two issues are is this an allowed use; the question is
70 elimination of parking. Town Square would need to state they don't need
71 this parking. They would need to demonstrate those spaces aren't
72 needed with an amended parking plan.
- 73 ■ Mr. Waite said another problem is maintenance; are they tending to the
74 upkeep of the ramps. John Recine commented he has seen people in
75 there. Mr. Kucharski added they have had a whole year to come to them
76 with a plan.
- 77 ■ Mr. Waite read the minutes from last year which stated no later than
78 September 2016 the mountain come in with a formal site plan review for
79 the skate park.

- 80 ▪ Steven Whitley, town attorney, suggested they turn this over to code
81 enforcement and let them write the letter about the park not having site
82 plan approval on file. They have been notified and given x number of
83 days to submit an application and if that doesn't happen they will be
84 found in violation.
- 85 ▪ Mr. Waite said that sounds correct. Mr. Larsen asked Atty. Whitley what he
86 felt would be appropriate as to what should be said.
- 87 ▪ Mr. Waite said a summary of events and the planning board's role in
88 providing them yearly special permission, and at this point in time they feel
89 it's time to make this permanent.
- 90 ▪ Tim Smith and Matt Hess enter the meeting.
- 91 ▪ Tim Smith said they do not have an application. At this time he felt it
92 wasn't a good idea. Right now they would prefer the one-year extension
93 due to the camp numbers being low. They are still influx at the future of
94 the skate park. They have continued with maintenance. Due to the
95 permancy of site plans he would prefer to wait.
- 96 ▪ Mr. Waite suggested the board turn this over to code enforcement and
97 establish a time frame in which to comply. Atty. Whitley answered yes. But
98 he is not comfortable with allowing them to continue use without site plan
99 approval. They would need the same approvals to continue to operate
100 like all businesses in town. Since the board recognizes there is no formal
101 approval it is time to correct that. He thinks even if there was some sort of
102 concrete approval previously the skateboard park has gone beyond that;
103 an expansion.
- 104 ▪ Tim Smith asked if they could do a site plan that was less cumbersome
105 since this is not a permanent structure and is not in a residential zone. The
106 cost of requiring various engineering reports for a structure such as
107 skateboard ramps is quite expensive. Mr. Waite said, like the horse stable,
108 there are steps that probably wouldn't be necessary but they would not
109 know unless they went through a conceptual design review.
- 110 ▪ Mr. Rita asked Mr. Waite to read the decision from the November 2015
111 meeting. "Mr. Larsen made a motion to approve a temporary one-year
112 extension on the skate park. It was seconded and all voted in favor. Mr.
113 Larsen also made a recommendation that September 2016 they
114 (Waterville Valley Resort) come in with a modified plan for the skate park
115 and go through the process, or they could come in at any meeting no
116 later than September 2016. Mr. Larsen then made a motion for them to
117 come in no later than September 2016 with a more formal site plan review
118 for the skateboard park."
- 119 ▪ Mr. Larsen added he thinks it is an allowed use on C1 land. Mr. Waite said
120 as recreation and it's a little murky, Mr. Larsen continued if it was on
121 vacant land that was one thing but it's not. It's on designated parking.
122 What they have to deal with is that area really needed for parking.
- 123 ▪ Bill Cantlin said he questions if they want to grant permanent approval for
124 a skateboard park in the C1 zone. It's been there a long time and the

125 mountain has always responded to requests for maintenance. Relative to
126 density in the C1 zone, its counter to the direction they want to go in.

- 127 ▪ Mr. Larsen said that planning board approval just means it's an allowed
128 use in that area but the land belongs to Waterville Company and it's up
129 to them (the planning board) to determine if it is allowed.
- 130 ▪ Mr. Waite suggested they turn this issue over to code enforcement.
- 131 ▪ Atty. Whitley said he thinks, in principle; this is a good way to address this.
132 The caveat would be they can't expand the use until they come before
133 the planning board and get site approval.
- 134 ▪ Mr. Waite made a motion the skateboard park issue be turned over to
135 code enforcement with an explanation of the history and a comment
136 that it would not be against the planning board's thinking that it be
137 allowed to continue during a site plan application process. Mr. Larsen
138 added they say the board of selectmen are acting as code enforcement.
- 139 ▪ Mr. Waite amended his motion to the skateboard park issue be handed
140 over to the board of selectmen who will be acting as code enforcement,
141 and state that the skateboard park currently has no planning board
142 approval.
- 143 ▪ Motion seconded by John Recine. All in favor.

144
145 ○ **Resilient Economies Pilot Program with North Country Council**

- 146 ▪ Tabled until the October meeting

147
148 ○ **Update on Sign Ordinance review (Bill Larsen)**

- 149 ▪ Mr. Larsen said, due to a Supreme Court case, it is suggested the planning
150 board take a look at the Zoning Ordinance regarding signage. The
151 feedback from Mark DeCoteau and the town attorney was there are
152 some problems.
- 153 ▪ The issue is they have a right to regulate signs but can they regulate the
154 content. The Supreme Court says no. Rule of thumb is you can write
155 whatever rules you want as long as they don't involve what is written on
156 the sign.
- 157 ▪ Any time they carve out categories for signage they probably are looking
158 at what the sign says to put them into a category. The Supreme Court said
159 that is a content-based restriction on speech. The fallout is municipalities
160 all over the country all have invalid sign ordinances. If they are looking at
161 zoning ordinance changes for upcoming town meeting this should be
162 added to the list.
- 163 ▪ Mr. Waite said it sounds like the sign ordinance is handled like a zoning
164 ordinance which would normally be handled like a private covenant. A
165 homeowner's association would have covenants stating what signs
166 homeowners could put outside their condos. It's an agreement between
167 the condo owner and the association.
- 168 ▪ Mr. Larsen started to put together concepts of changes they might
169 consider. Shared a handout with the board (attached to these minutes).

- 170 ▪ Mr. Larsen goes through his suggestions with the board.
- 171 ▪ The board discussed several of the suggested amendments.
- 172 ▪ Mr. Larsen said if this is the direction they choose to go they should discuss
- 173 it more thoroughly.
- 174 ▪ Mark DeCoteau said political signs are another area. He stated he feels
- 175 they should leave what they have. Atty. Whitley suggested they take it
- 176 out. Someone could suggest the entire sign ordinance be stricken
- 177 because of that one restriction. They (political signs) would have to
- 178 conform to the same characteristics of other signs in their ordinance. They
- 179 shouldn't categorize them.
- 180 ▪ Mr. Larsen commented they have a lot of work to do. They do have a
- 181 need for temporary signs due to the nature of a resort. He would like to
- 182 keep that in and create rules around what a good temporary sign should
- 183 look like.
- 184 ▪ Mr. Waite would like to get input from Tara Bamford.
- 185 ▪ Bill Cantlin said the planning board should state what type of sign they
- 186 would like to see regarding future development. This would be land that
- 187 doesn't have site plan approval; signs for future developers.
- 188 ▪ Mr. Waite suggested setting up a committee to review the sign ordinance.
- 189 He asked Mr. Larsen if he would lead this. Mr. Larsen said yes. Ms.
- 190 Rathgeber offered to help.
- 191
- 192 ○ **Assign CIP Subcommittee**
- 193 ▪ Mr. Waite asked for planning board members to join this subcommittee.
- 194 Mr. Waite stated he is on the committee.
- 195 ▪ They meet once a month for approximately 3 to 4 hours. This is flexible.
- 196
- 197 • **Old Business**
- 198 ○ **Town Attorney Steve Whitley on the Zoning Ordinance Review update.**
- 199 ▪ Tara Bamford from the North Country Council could not attend this
- 200 meeting. He has not yet gone over these items with Ms. Bamford.
- 201 ▪ Atty. Whitley has reviewed items Ms. Bamford identified in her review of
- 202 the Zoning Ordinance.
- 203 ▪ Article IV – mentions setbacks on land belonging to the United States
- 204 Government. Atty. Whitley suggested it would be better to state land
- 205 designated to the White Mtn. National Forest. This would suggest use-
- 206 oriented qualification rather than ownership.
- 207 ▪ Section V.B.4 – Atty. Whitley has no concern with the setup as is. If they are
- 208 going to make changes it would be helpful to have more detail as to
- 209 what the planning board wants.
- 210 ▪ Section V.D.2 – Junkyards. Atty. Whitley believes this is permissible as it falls
- 211 under zoning for aesthetics.
- 212 ▪ Section V.K – Sign ordinance permits issued by board of selectmen. Atty.
- 213 Whitley says this is fine.

- 214 ▪ Section V.K – Content-based differences in the sign ordinance which Mr.
- 215 Larsen already covered.
- 216 ▪ Section V.K. 18.f and 20.a – Sign Design Requirements would be seen
- 217 more in private covenants rather than zoning ordinances. 18.f needs more
- 218 detail; 20.a character of the Valley is the question – what does it mean?
- 219 Discussion on grandfathered rights regarding signage.
- 220 ▪ Section V.L.1 and 2 – Trailers, snowmobiles, boats, and commercial
- 221 vehicles. Generally seen in private covenants. Atty. Whitley believes these
- 222 are fine in the zoning ordinance due to aesthetics.
- 223 ▪ Section V.N – Architectural regulations generally seen in private
- 224 covenants. They need to add more detail. Their last phrase general
- 225 appearance is attractive....more details what is considered more
- 226 attractive.
- 227 ▪ Section V.P.4 – Construction site cleanup. Suitable container for solid
- 228 waste must be rented from the town. Atty. Whitley does not believe it can
- 229 be required that someone rent only from the town. Mr. Larsen said that is
- 230 not enforced and they should take that out.
- 231 ▪ Section VI .A.2 – Nonconforming uses in signs. Renovate is an extremely
- 232 broad term. Needs to be defined/limited to moving or enlarging.
- 233 ▪ Accessory use question Atty. Whitley or Tara Bamford could offer
- 234 guidance. It won't be black/white guidance and they will have to make
- 235 a judgment call.
- 236 ▪ Mr. Waite asked about the planning board ensuring deeds are recorded
- 237 for properties given subdivision approval. Atty. Whitley said it should be a
- 238 condition of approval otherwise it is not a planning board concern.
- 239 Sometimes developers get subdivision approval and the economy tanks
- 240 and they don't do the development so there is nothing deeded.
- 241 ▪ Bill Cantlin asked if there was a lot line adjustment and deeds never
- 242 transferred and the town allowed someone to build they have a property
- 243 that does not meet zoning requirements. It should be a civil matter but
- 244 then it would also be a zoning violation and wonders how that would be
- 245 handled. Atty. Whitley said tell both property owners they are in violation.
- 246 ▪ Mr. Waite asked about phased subdivision. A large lot that is subdivided
- 247 into two lots with the intention of subdividing one for four phases. Can the
- 248 subdivision of a lot be approved without a deed? Attorney's answer is yes.
- 249 In approving, that lot can be parceled out in four phases and only have
- 250 the plat plan for phase one be recorded and still have subdivision of A
- 251 and B be approved even though only a portion of B is recorded. Can the
- 252 subdivision of B be considered approved with the improvements done;
- 253 and only phase B.1 being recorded and then they move onto the 2nd
- 254 phase.
- 255 ▪ Atty. Whitley doesn't have an answer. It depends on how much
- 256 information was supplied on the approval of A and B. If everyone
- 257 understands what is approved and what is required for the plat approval
- 258 they are probably okay. As long as the developer has substantial

259 completion. As long as they have complied with what is in the subdivision
260 regulations. Mark said they need to do a review of the site plan and
261 subdivision regulations.

- 262 ▪ Atty. Whitley responded to this by stating the law is if there is a subdivision
263 plat they approve, the regulations or the approval should specify what
264 the developer has to do to meet what is called "active and substantial
265 development". If they do those things, which are usually infrastructure,
266 within 24 months their approval is vested for five years. Within that 5-year
267 period there are additional things they have to do that is called "active
268 and substantial development" that should also be defined in the
269 regulations or by the planning board approval. If the developer meets all
270 those things within the allotted time frame then they are vested from
271 having to come back before the planning board forever.
- 272 ▪ Mr. Waite asked once the planning board reviews subdivision of A & B,
273 with B being a 4-phase subdivision, what is the tax situation? Does lot B get
274 taxed as a separate lot?
- 275 ▪ Atty. Whitley answered there is a statute regarding this and he read "if you
276 have a subdivision approval that has been granted on or before April 1st
277 of a particular tax year, then such lots for that tax year are treated
278 separately, whether or not any sale or transfer has occurred.
- 279 ▪ Mr. Waite said this hasn't been subdivided into separate lots at this point.
280 Developer has said he wants to divide B out A but is only going to develop
281 Phase I. Atty. Whitley said Phase I is treated separately.
- 282 ▪ Atty. Whitley continued reading the statute "If subdivision approval does
283 not become final until after April 1st of a particular tax year, all
284 assessments, tax warrants, and appraisals during that tax year pertain to
285 the entire nondivided property.
- 286 ▪ Discussion with Mr. Cantlin regarding the subdivision/phase confusion on
287 Green Peak. Atty. Whitley did not want to comment further on this unless
288 they go into nonpublic session.
- 289 ▪ **Planning Board entered nonpublic session at 10:23 am.**
- 290 ▪ **Planning Board ended nonpublic session at 10:47 am.**
- 291 ▪ Mr. Kucharski asked why they should be considering Mr. Cantlin's request
292 when there is no formal application.
- 293 ▪ Ms. Rathgeber thought Mr. Cantlin was going to take information from his
294 previous packet and submit it. Mr. Kucharski said Mr. Cantlin has not done
295 that. Mark suggested they submit a letter to Mr. Cantlin that the board is
296 willing to use the information supplied on Phase I for consideration in
297 further phases.
- 298 ▪ Mr. Waite said if it is the consensus of the board he will write a letter that
299 states they would require a new application and they would be willing to
300 start with the existing package with an application on top of it. Mr. Larsen
301 thinks this whole issue is for Bill Cantlin to have leverage to erect a new
302 sign. He doesn't believe Mr. Cantlin is prepared to submit a new

- 303 application at this point. Mr. Recine would like Mr. Cantlin to be clear as to
304 what the Planning Board is clear on.
- 305 ▪ Mr. Waite added he will construct a letter that states the planning board's
306 conclusion is Green Peak subdivision has been for tax map numbers 105-
307 008.1. Further development will require appropriate subdivision and site
308 plan.
- 309 ○ **Request for Conservation Commission Planning Board Ex-Officio**
 - 311 ▪ Mark DeCoteau spoke with Conservation Commission Chair David
312 Olarsch regarding their meeting status. He said when he thinks there is
313 something for the commission to cover a meeting will be called.
 - 314 ▪ Mark talked to David about having regular meetings and he was told
315 maybe. If there was a requirement to hold a meeting he will have one.
 - 316 ▪ Mr. Notowitz said they are supposed to be working on the requirements
317 for the master plan. Mark said this falls under the purview of the planning
318 board so they can request the information that is needed.
 - 319 ▪ Mr. Waite said the planning board will issue a letter to the Conservation
320 Commission requesting language on wetlands for the master plan.
- 321 • **Committee Reports**
 - 322 ▪ Town Core Group (presented by Ms. Rathgeber)
 - 323 ▪ With the assistance of Mark Kane the Tap application went in. This is
324 primarily focusing on how to direct bicycle and pedestrian traffic from the
325 town core to the "spokes of the wheel" using more of the trail system and
326 building out around it.
 - 327 ▪ Mark Decoteau reported the decision will made before the end of
328 December this year.
 - 329 ▪ Ms. Rathgeber added Tap is an 80/20 grant. The awarded funds are
330 \$680,000.
 - 331 ▪ Discussion on how the amount was determined.
 - 332 ▪ The only commitment they have right now is to put the \$170,000 of town
333 monies on the warrant.
- 334 • **Communications**
 - 335 ▪ Included in the packet. A planning board meeting in Plymouth about new
336 cell tower being placed on Tenney Mtn. Highway.
- 337 • **Tickler Files**
 - 338 ➤ Research on lighting
 - 339 ➤ C1 Density; Shared Parking; Restricted Parking; Extension of Boulder Path
- 340 • **Adjournment**
 - 341 Mr. Notowitz made a motion to adjourn the meeting at 11:10 am
 - 342 Mr. Guilbert seconded the motion
 - 343 All in favor

348
349 Respectfully submitted,
350 *Mary Pelchat*
351 Planning Board Assistant
352 Waterville Valley Town Office
353